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ANCIENT LAWS OF IRELAND.

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AND

CERTAIN OTHER SELECTED

BREHON LAW TRACTS

PUBLISHED UNDER THE DIRECTION OF THE COMMISSIONERS FOR PUBLISHING THE ANCIENT LAWS AND INSTITUTES OF IRELAND.

VOL. IV.

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27, Upper Pembroke-street,
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My Lord,

Having been requested by the Commissioners for publishing the Ancient Laws and Institutions of Ireland to edit such of the Brehon Law Tracts translated by the late Dr. O'Donovan or Mr. O'Curry as might be most suitable for publication, the Rev. Dr. T. O'Mahony and myself proceeded to prepare for the press the text and translation of the several Brehon Law Tracts contained in this volume.

The Rev. Dr. T. O'Mahony, in consequence of ill-health, was unfortunately obliged to retire from all connexion with the editing of this volume before he had finally revised the entire Irish text. I am much indebted to the kindness of Mr. W. M. Hennessy, who corrected for the press that portion of the original text which had not been finally revised by the Rev. Dr. T. O'Mahony.

The notes appended to the text, except mere references, were selected by the Rev. Dr. T. O'Mahony from those appended to the manuscripts of the original translators.

For the Introduction I am exclusively responsible.

The Index and Synopsis have been prepared by Mr. P. Bagenal.

I am, my Lord,
Your Lordship's obedient servant,
Alexander George Richey.

The Right Rev.
The Lord Bishop of Limerick,
Secretary to the Commission for Publishing the
Ancient Laws and Institutions of Ireland.

CONTENTS.

Page

INTRODUCTION:

Part I.—General observations as to the translation, vii
„ II.—Of the Tract entitled "Of taking possession," xiii
„ III.—Of the "Fine" and the "Gulfine" system, xlix
„ IV.—Of the Incidence of Fines, . . xciv
„ V.—Of the Succession to Land, . . ciii
„ VI.—Of the Tract entitled "Judgments concerning Co-tenancy," . . . cxix
„ VII.—Of the Tract entitled "Bee Judgments," . cxli
„ VIII.—Of the Tract entitled "Right of Water," . clvi
„ IX.—Of the Tract entitled "Precincts," . clxiv
„ X.—Of the Tract entitled "Divisions of Land," clxx
„ XI.—Of the Tract entitled the "Crith Gabhlach," clxxiv
„ XII.—Of the Tract known as "The Sequel to the Crith Gabhlach," . . . ccviii
„ XIII.—Of the Tract known as "Of Succession," and concluding observations, . ccxxiii

Synoptical Contents of Introduction, . . ccxxxi

I.—Din teċtugad; or "Of taking lawful possession," . 1
II.—Breatha comaithcesa andso; or "Judgments of Co-tenancy," 67
III.—Bech bretha; or "Bee Judgments," . . 161
IV.—Coibnius uisci; or "Right of Water," . . 205
V.—Maiġne; or "Precincts," 225
VI.—Do breiṫeaṁnus, &c.; or "Of the Judgment of Every Crime," &c., ... 239
VII.—Téd an fearann a cintaib; or "The Land is forfeited for Crimes," 263
VIII.—Fodla tire; or "Divisions of Land," . . 275
IX.—De fodlaib cineoil tuaiṫi; or "Of the Divisions of the Tribe of a Territory," . . . 281
X.—Crith Gaḃlaċ, the Crith Gabhlach, . . 297
XI.— Do. do., the Sequel to the Crith Gabhlach, 343
XII.—The unnamed Tract entitled " 371

General Index of the Text

INTRODUCTION.

I.

THE Brehon Law Tracts contained in this volume have been selected by the Editors as specially illustrating the land-laws of the early Irish, and the constitution of the Celtic family and tribe.

Upon the former of these subjects it is not to be anticipated that we should find in any work, composed by a lawyer of the Brehon school, a series of definite rules systematically arranged; or even an attempt to lay down the general principles upon which, in any class of cases, the judge or arbitrator proceeded. The idea of law in its technical sense was wholly foreign to the ancient lawyers. They dealt not with laws, but customs; which, of unknown origin, handed down from remote antiquity, often obscure, and frequently misconceived, influenced the public opinion of each tribal community as to what it was right should be done in each particular case. The Brehons were gradually approaching the idea of general legal propositions by an induction from numerous and distinct cases which had been decided in accordance with pre-existing customs.

This mode of dealing with legal questions has been largely illustrated in the preceding volumes; assuming an individual case to have resulted in a concrete decision, they vary to a certain extent the constituent facts of the case by adding some, or striking out others, and speculate as to the variation in the decision which should have followed such an alteration in the facts. This mode of dealing with legal questions naturally fell in with the idea that all legal rights should be treated from a negative point of view, that is, considered not with the object of being enforced, but rather of being compensated for when infringed, the amount of such compensation being assessed in fixed ratios with reference to the varying circumstances of each case.

To record the existing customs of their tribe was not an easy task for the ancient lawyers, for it involved the necessity of reducing the indefinite general opinion of the tribe into a series of abstract propositions by a wide induction from particular cases. The most indefinite custom cannot exist, or be transmitted, without being reduced to some form which is capable of oral transmission, and in every uncivilized community certain ancient rules, dealing indifferently with moral and legal matters, are handed down from father to son, and remain the exclusive possession of the elders of the tribe and the sages of the law. Such ancient rules, when preserved, rarely afford any distinct or reliable information; they are intended to serve as catchwords or suggestions to assist the memory to recall what had been previously orally communicated; generally in a rythmical form, always in language condensed and antiquated, they assume the character of abrupt and sententious proverbs, the drift of which cannot be more than vaguely guessed at. Collections of such sayings are to be found scattered throughout the Brehon Law Tracts, and in them, if anywhere, are to be found whatever abstract legal propositions the Brehons possessed; it is to be regretted, although it may be naturally anticipated, that but little clear and definite information can be extracted from these passages. If we were certain that they were preserved in their original form, and had no doubt of the accuracy of the translation, yet the actual meaning and practical application of these brie
and oracular utterances would be to a great extent a matter
mere speculation; such, however, is far from being the ca
and the modern critic approaches the consideration of th
under great, if not almost insuperable, difficulties.
first inquiry naturally is, whether we possess an authe
Archaic text; upon this preliminary and cardinal questi
is impossible not to feel most serious misgivings; ho
ancient any particular rule, or rather apophthegm,
the grammatical form of the language in whicl

expressed cannot claim very high antiquity; it is manifestly much later than the Irish of the glosses; the words have lost their inflexions, but the sentences have not assumed a logical construction, and their present form very much resembles a Latin inscription in which the inflexional terminations of the nouns and verbs have been erased. Both the text and matter of popular literature orally transmitted undergo a constant assimilation to the language and ideas of the day; but many examples prove that ancient formulæ handed down as the exclusive possession of a comparatively small number may at length become unintelligible even to their exclusive custodians; the Salian hymn of Numa and the litanies of the Arval brothers were repeated long after their direct meaning was lost. Although it cannot be contended that the text of the Brehon law had become as absolutely antiquated as the formulæ last alluded to, it is evident that the commentators felt that they were dealing with an uncertain and difficult text; the numerous and often conflicting glosses, and the commentary, sufficiently prove this. The original text may perhaps have been as much, and as little, understood by the Brehon of the 16th century as the original text of the laws of the Decemviri by the Roman of the 1st century.

An ancient legal text is further very much embarrassed by the necessary use of purely technical terms, which can have no life or meaning apart from the society in which they originated, and which when once lost can never be recovered. The extensive reforms effected during the present century in the English Real Property Law have already rendered obsolete a large proportion of the terms of legal art which were familiar to the cotemporaries of Lord Kenyon. In the case of an hereditary profession, as was that of the Brehon judge, the use of technical terms throws about the simplest operation the air of mystery, in which the exclusive possessors of any speciality desire to hide their calculations; and thus by every profession whose members assume an abstruse character, heralds, lawyers, theologians, &c., there are used vastly more technical words than are necessary, the object of which is rather to cloak trivial, than to express complex, ideas. Difficulties arising from this cause occur plentifully in every Brehon law tract.

The task of translating the original text is further embarrassed by the ordinary absence of punctuation in the manuscripts. When the sentences in a paragraph are intended to be fully developed, an intelligent reader supplies for himself the want of punctuation (which is a very modern invention), and successfully follows the sense of the authors as it is gradually developed. The original Brehon text consists altogether of curt and proverbial expressions, which rarely attempt the completeness of a sentence, and are strung together without an attempt at logical or grammatical connexion; indeed it may be fairly supposed that if one of these paragraphs had been read through to a Brehon judge for the first time, evenly and without strong accentuation, he would have found himself much perplexed if required to explain the meaning. It is apparent that the most ancient passages possessed a rythmical structure, an that the movement of the verse, and the pauses in the line threw out separately and emphased the curt and unorganize apophthegms. Passages of this character, when all t words are reduced to the one dead level by being successiv written out without stop or accent, are absolutely depri of all the aids to their comprehension, which their aut assumed would be lent to them by the voice of the teacher.

Editors of such a text must exercise the utmost cau and are exposed to constant temptations. The first sary step which should precede translation is to br the text into the proper paragraphs and sentences form of the text gives no indications how this should b and hence in the present case the logical process h often inverted, the punctuation being fixed with to an *a priori* conjecture of the general drift of th Such speculations, however ingenious, are alwa cally of little value, when a large proportion of are technical terms, the precise meaning of which to the author. The editors of this volume, which contains many passages of peculiar difficulty, have felt themselves forced to reconsider the principles upon which the more ancient text should be translated, and to lay down some rules for their own guidance in the matter. They have come to the opinion that the only consistant principle upon which a translation of the archaic passages can be based is to adopt the explanations of words contained in the glosses, and to assume the correctness of the views as to the general meaning of the text expressed in the commentary. It may be easily conceded that the authors of both the glosses and commentary were themselves unable to translate the text with accuracy, or with certainty to divine its meaning; but their condition in respect to the modern editor is as twilight to absolute darkness. At what date the original family and tribe-system was broken up in Ireland; whether it had not been superseded by another organisation even before the date of some of the commentators of the Brehon law tracts, is a question which cannot be answered without much consideration and further examination of both the Brehon law and the existing materials of Irish history; but whether the original Celtic family and tribe-system did or did not exist in its completeness at the time of commentators, they lived under the influence of the ancient traditional law, and must, as an hereditary caste, have cherished the recollections and spirit of the old customs, the exact knowledge of which may even have ceased to be of practical importance. As a means of understanding the present, as even a fragmentary survival of what was once useful knowledge, every lawyer learns as a matter of course much which is really obsolete and unpractical. The English law student is instructed in much of the law which has been long since advantageously abolished. The theory of the feudal system, the origin of the manor, the feigned proceedings by fine and recovery, are taught to modern students, who may never have any need practically to apply them; but by this process the tradition of the old real property law of England is handed on; and a second rate practitioner of our day could to some extent explain a case in the year books which would be absolutely impenetrable to the trained mind of an accomplished civilian. Before attempting to fix the meaning of any passage in the original text, the editors have consulted the glosses and commentary with the view of ascertaining what the original commentators understood the general drift and meaning of the text to be, and the punctuation and translation has, as far as possible, been based upon the assumption of the correctness of the views of these early critics. The more any student becomes conversant with the ancient texts, the more he must be impressed with the fact that any other mode of dealing with them is wholly conjectural. It is possible for an ingenious editor, by a due application of stops, and the interpolation of words, supposed to be understood, in italics, to produce any results he may desire, and by such a process a very plausible and consistent appearance may be given to a translation which bears a very feeble (if any) resemblance to the original. It is the simple duty of the editors of the present volume to give the public a translation as correct as possible of the Irish text, and they have anxiously abstained from the constant temptation to translate this text in accordance with their preconceived views of what it ought in any given case to mean; they at the same time desire to warn students of the subject that in their opinion the present translation of the original text can not be received as final or satisfactory: it is essentially tentative : that other students will differ from it in many particulars is certain; that some may successfully revise and correct it is most probable; neither the late distinguished scholars, who originally translated the MSS., nor the present editors, nor any future critic are certain to be always successful in dealing with such a subject matter. The reader cannot be too clearly reminded that the translation of the original texts has been conducted upon the principles before stated; that conjectures founded upon the supposed meaning of detached passages of text, and unsupported by the commentary are uncertain; and that the commentary, not the text, is, in the opinion of the editors, the reliable basis for any conclusions or further speculations. These observations are the result of a prolonged experience in dealing with these Brehon texts; the most difficult of the passages in question have been translated and re-translated; frequently the translations were apparently most consistent and probable, but again and again they have been found to be inconsistent with what the glossists and commentators manifestly understood them to be, and in many such instances the editors had finally to admit that their own views as to the meaning of the text were, although perhaps ingenious, altogether mistaken. As to the technical legal terms occurring in the text, the editors have desired to translate them as far as possible; it must be observed that such words cannot find an exact equivalent in any modern language; the complex ideas represented by these words were, as is the case of all legal terms of art, formed under peculiar and transitory conditions of society, and their real and living use and meaning perished with the system out of which they sprang. Their meaning can be only approximated by a diligent comparison of the divers passages in which they occur.

II.

THE TRACT ENTITLED "ON TAKING LAWFUL POSSESSION."

THE first tract contained in the present Volume is entitled "On Taking Lawful Possession," and the importance and peculiar meaning of this title will be obvious from the subsequent observations.

The first portion of the original text down to page 33 is obviously composed as a consecutive treatise dealing with the symbolic ceremonial by which an action for the recovery of the possession of land was instituted; the latter portion consists of a selection of isolated rules, some dealing with hereditary succession to land, others having no more than an incidental connexion with those which precede them.

This tract, in itself of obvious utility to the practising Brehon, is the subject of lengthened and clear explanations, and it would appear that the commentary annexed to the text is formed by combining several antecedent commentaries from different manuscripts, inasmuch as very similar notes upon the same passage succeed each other in the text.

The great importance of this tract arises from its exhibiting in the clearest manner the mode in which the judicial authority of the Brehon arose, and the series of legal fictions by which a defendant was constrained to come into court, and to submit his case to the jurisdiction of the customary Judge. It is most interesting to observe that the authority of the Brehon among the Celtic Irish arose in precisely the same manner as that of the Judges, by whatever title they may be called, among the other Aryan tribes; that the peculiarity of the Brehon system does not prove any abnormal organization of the Celtic tribe, but was in truth but an instance of archaic survival; and that a Roman might have recognised in the proceedings before the Brehon the ancient and technical formulæ, from which with difficulty and after long delay the Civil Law succeeded in freeing itself.

The evolution of the idea of law and judicial authority is inseparable from and follows that of government and social organization; the judicial system of the Celtic Irish was permanently fixed by the arrested development of their social organization, from many causes, which it is not intended here to discuss, but most of which were originally physical. The Celtic Irish never formed town communities, or were subject to any vigorous central authority; it was utterly impossible, therefore, that they could attain to ideas of law, which are evolved by the needs of a more complex civilization; the peculiarity of the Brehon is that professional lawyers of great acuteness and considerable technical education developed in numerous written works the logical results of a purely archaic customary law.

In the introduction to the last volume we drew special attention to the fact that all judicial authority, at least among the Aryan or Indo-European tribe communities, is originally derived from a system of voluntary submission to arbitration, and we treated the Brehon process by distress as a legal fiction illustrative of this principle; the formulæ necessary for the institution of actions to recover the possession of land, and which are dealt with very fully in the present tract, in a remarkable manner illustrate this rule, and present extraordinary analogies to the ancient processes of the Roman law. We desire very briefly, and with special reference to the forms of actions—the subject of this tract—to re-consider the origin and theory of judicial authority in primitive communities. Every archaic society is governed absolutely and exclusively by "Custom," which may be defined as the acquired habits of any human community. Whence any such habits were originally acquired, or when any society began to acquire and transmit any fixed modes of acting, are questions wholly foreign to this introduction; we must accept as a fact that every human community appears to have acquired certain habits of acting, and that the surrounding physical conditions have been most influential in either originating or modifying them; abstract ideas of right or wrong are very obscure in the members of a primitive community; even in the ordinary affairs of daily life they consult their own comfort and advantage much less than do the members of a civilized society, and do and endure many things because their ancestors did or endured the same, for the local opinion of the tribe believes that their ancestors were wiser than themselves, and what has been shall continue to be done. In such a state of society the ordinary incidents of life, such as the birth or death of any member of the community, &c., are followed by fixed and well-known results, and the status, property, and position of each individual depend upon, or are affected by, the occurrence of a well-understood fact, or group of facts. The progress of any such society arises from the efforts of individual members to get rid of the custom which restrains their personal freedom, to act otherwise than the unwritten law of public opinion decrees that they must act, from the struggle of the free will against the local custom. In such communities the individual dares not attempt to attain his object by open contradiction, or repudiation of the venerated local usage, and strives, therefore, to effect his purpose through fictions by means of which the custom is violated in fact, though observed in appearance. If a man, who desires to do something which he is forbidden to do directly, observes that in the event of certain facts occurring the custom will allow him to do what he desires, he may artificially produce the requisite state of facts, and then, in apparent conformity with the custom, circuitously effect what he could not have directly accomplished; in such a case a series of acts are consciously done solely for the object that a certain effect may follow; the object desired is the consequence of the act done, and arises from the actual pre-existence of the necessary antecedent fact; gradually as it is understood that the custom can be thus evaded. the necessary antecedent acts became less and less real, and finally assume the form of a symbolical, or pantomimic performance, which, with the object of individual convenience, is gradually more curtailed, until at last it is simply alleged or verbally asserted to have been performed, and matters are allowed to proceed upon such assumption. Up to this point it is manifest that the necessary antecedent facts must be fully and correctly performed, simulated, or alleged, and that any failure so to do, or incorrectness in so doing, must result in the failure of the whole operation. Finally, the exception having become more familiar than the rule, the society begins to believe that the individual has a right to do directly what he has hitherto affected indirectly, and the formula, which originally was the foundation of the matter, is discovered to be an unmeaning technicality and rejected altogether. The ceremony of marriage among hal civilised nations is the most obvious instance of this fac and the form of marriage by wife-capture existed in Rom as in many other communities, for centuries after the d at which its meaning was so utterly forgotten that histo romances were invented to account for its origin. A transactions of this kind during the intermediate period, when the necessary antecedent facts were merely simulated or alleged, two points must be observed; first, that unless the simulation was correctly performed, or the allegation full and complete, no results at all followed, and secondly, that if the ceremony was correctly gone through, precisely the same results followed as would have resulted from the real occurence of the facts simulated to have occurred.[*]

The jurisdiction of Judges was gradually established by a series of fictions. In the original tribe each "paterfamilias" ruled as of right those under his absolute jurisdiction; but, if differences arose between members of two distinct families, there was no original authority to which either could appeal; such disputes could be decided only by a recourse to force and arms; the manifest inconveniences of such a system called for some remedy, as the society progressed towards order and civilisation. At some period there arose a custom, or general public opinion, that under certain definite circumstances the hostile litigants should submit their quarrel to the arbitration of the tribe, and that the question in dispute should be decided by reference to the assumed pre-existing custom.

The rule that in such cases recourse should be had to arbitration was in its inception one of imperfect obligation, and the contending parties might still insist upon the natural right to assert their claims sword in hand; the regulations as to judicial process among the early

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[*] The common recovery in the English law was one of the most elaborate and successful of legal fictions; by this process the owners of estates tail succeeded in practically repealing the Statute "De donis." The original form of procedure in actions of ejectment is often described as another instance of legal fictions; but it does not fall within Sir H. S. Maine's definition of the term; it was not introduced to create or attract jurisdiction, for the Court of Common Bench had original jurisdiction to decide the question really in issue; and it produced no change in the rules of the Common Law relative to titles to land. In its inception it was nothing more than a fraudulent abuse of the procedure of the Court arising from the alteration in the form of judgment entered up in actions commenced by the writ "*de ejectione fermae*;" and the alterations in the procedure, which established it as the ordinary action for the recovery of land, were introduced by the Court itself.

Norse settlers in Iceland illustrate this most clearly;* but gradually the increasing pressure of public opinion caused the reference to arbitation to become the accepted and normal mode of deciding differences between the members of the tribe. It is to be observed that the public opinion, or custom, did not require the intervention of the arbitrator until the dispute had reached a certain point, viz., until the public peace of the tribe was broken by the occurrence of actual hostilites between its members. An individual could not institute a suit to determine a right as against his neighbour; but if he assailed his neighbour, spear in hand, the community required both to submit their rights to arbitration. The plaintiff, therefore, who desired a judicial decision upon his claim, proceeded openly to assert his right in an hostile manner, confident that upon the inception of the combat the other members of the community would intervene and enforce the custom of arbitration against both parties; the neighbours would not, however, step in between the parties until matters had gone on to the point at which the custom required a submission to arbitration, nor could the defendant be required to admit that the custom applied to his case, unless all the preliminary requisite circumstances had actually occurred. The pantomime of actual conflict had to be correctly acted up to the critical point, otherwise there would be no basis for the jurisdiction of the arbitration, and it should not be pushed beyond a definite point, otherwise actual conflict would have occurred, the very thing which the plaintiff desired to avoid. Hence the extreme technicality of all the early procedure, which proceeded upon this theory, and the fact that ancient lawyers devoted their attention to the formulæ requisite to bring a defendant into court, and disregarded the principles upon which the case should be decided when brought before the arbitrator; for the decision of the case it was assumed that the existing custom was sufficient, and the "sensus communis" of the members of the community evolved the presupposed usage which ruled the case.* Ignorance of the prescribed formula deprived a

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* "Then Flosi spurned the money, and said he would not touch a penny of it, and then he said he would have only one of two things; either that Hanskuld should fall unatoned, or they would have vengeance for him." (The story of Burnt Njal, vol. 2, p. 155.) This was after the judgment, and the tender of the compensation.

* The proceedings at the trial at the Hill of Law in the second volume of the Burnt Njal illustrate this fact, and prove that the technical terms relative to various classes of wounds, &c., and the mysterious and obscure proceedings incident to an action, were not peculiar to the Brehon Law. The course of the proceedings in this case may be briefly stated as follows:—Mord, the nominal plaintiff, gives technical notice of the institution of suit (p. 235); Flosi, the defendant, in the night secretly resigns his priesthood and joins the Thing of Askel to escape the jurisdiction of the Court (p. 239); the next morning Mord opens his case with the following notice—"I take witness to this, that I except all mistakes in words in my pleading, whether they be too many, or wrongly spoken, and I claim the right to amend all my words, until I have put them into proper shape. I take witness to myself in this" (p. 242); the first objection taken is in the nature of a challenge of the array, viz., that two of the neighbours on the inquest were relatives to Mord, one his godfather, the other his second cousin (p. 248); Thorhall, the adviser of the plaintiff, demurs to the challenge on the ground "that he challenged them not for their kinship to the true plaintiffs, the next of kin, but for their kinship to him who pleaded the suit" (p. 250). The demurrer is allowed. The defendant again challenges the array on the ground that two men on the inquest were lodgers only, not householders (p. 250). Thorhall replies that the men qualified as owners of cattle of a value equal to that of the requisite qualification in land (p. 252). This was a novel point. Flosi said to Eyjolf—"Can this be law?" Eyjolf said he had not wisdom enough to know that for a surety, and then they sent a man to Skapti, the speaker of the law, to ask him whether it were good law, and he sent them back word, "*that it was surely good law, though few knew it*" (p. 252). Then followed a challenge to four of the inquest; "for those sit now at home who were nearer neighbours to the spot" (p. 253). To this challenge Thorhall demurs on the ground that a majority of the inquest was rightly summoned, and that therefore the case should proceed, whereupon a further application is made to Skapti, who replies, "More men are good lawyers now than I thought. I must tell you then that this is such good law in all points, that there is not a word to be said against it; *but still I thought that I alone would know this, now that Njal is dead, for he was the only man I ever knew who knew it.*" The inquest are then called on to give the verdict, which they do without further evidence, for they themselves were the witnesses (p. 256). The plaintiff goes then before the Court, and proves the finding of the inquest as to the fact, and the defendant, Flosi, is called to defend the case, or rather to show cause against the finding. Eyjolf, on behalf of the defendant, pleads to the jurisdiction of the court, which was the Eastfrithersthing, whereas Flosi, being now a Thingman of Askel, was within the jurisdiction of the Northlandersthing. This objection was fatal; but a second suit is immediately instituted against Flosi for contempt for court for employing a lawyer in the court to whose jurisdiction he was not subject, "for having brought money into the fifth court" (p. 261). This step was taken to compel Flosi to withdraw the plea to the jurisdiction. Other technicalities follow, but the litigation finally resolves itself into the "Battle at the Althing."

man of, not of the right, but of the possibility of bringing his antagonist before a Judge; and the possessors of the requisite mysterious forms, whether patricians, pentiffs, or Brehons, thus acquired the advantage of being the sole possessors of these secret and essential forms. Thus, in the Roman law, the term "*actio*" became the generic designation, which signifies a particular form of procedure taken as a whole including the ceremonies, acts, and words, which constituted it; all of which had to be correctly gone through before the Judge had any jurisdiction in the matter. The case of the Romans proves that it is quite possible that an actual written law should co-exist with such a purely archaic conception of the position and jurisdiction of the Judge.

This period in the development of Roman law is clearly illustrated in the following passages:—

"The Quirites (men of the lance) had, in their judicial customs, even to the promulgation of the twelve tables, forms of procedure, assimilated to acts of violence, and to the combat, in which we at once see their predominant characteristic, the military life, and the important part played amongst them by their favourite instrument, the lance; as also the predominance of the sacerdotal and patrician elements, which had regulated the forms, and which had preserved the pantomimic action of former days."*

"The *actiones leges* were completed *in jure* before the magistrate, and this was the case even when it was necessary for him to appoint a Judge. This was the form, the preliminary step;"† (that is, the intervention of the state did not proceed beyond compelling the parties to submit the quarrel to an arbitrator; the state did not pretend itself to enforce the law in the first instance);

"But notwithstanding the fact that the *sacramentum*, and the *judicii postulatio* were generally forms for the enforcement of all substitution of rights, and that they had in all cases a certain uniform characteristic, however much the details and necessary formulæ, adapted to each individual case, might vary in each instance, according to the nature of the law, or according to the provisions of the law upon which the right was based, it was necessary that the parties should be familiar with the acts and ceremonies suited to their particular case."*

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* Ortolan, History of Roman Law, sec. 140.

† Id., sec. 142.

"Such was the early system of procedure amongst the Romans. Its characteristic was symbol; it is here that we find the lance, the tuft of grass, the tile, and the material representation of ideas, or of objects. It is here that we find the gesture, the legal pantomime, the simulated act of violence, the fictitious combat (*manuum consertio*), for the most part symbolising the transactions and processes of an earlier and barbarous period; here we find the utterance of sacred terms, and he who should be so unfortunate as to say "vine" (*vites*) in an action concerning vines, instead of using the word "*arbores*," which was the religious term peculiar to the law of the case, would lose his action; here we find the impress of the sacerdotal finger; we see it in the *sacramentum*, the preliminary deposit of money in the hands of the pentiff for the benefit of public religious service; we see it in the *pignoris captio*, accorded subsequently on occasions in which religious sacrifices were concerned; and it is here we find the weight of patrician influence. The magistrate was a patrician; the Judge could only be selected from the order of patricians; in one word, *jus* and the *judicium* were in their hands."†

The explanation of the latter statement plainly is that it was the original tribe, not the mere sojourners or strangers on the spot, who had the right to intervene to preserve the peace, and that none but a member of the original tribe could be assumed to know the local custom.

The Roman ceremonial to which we desire to draw particular attention, as presenting peculiar analogies to the Brehon procedure detailed in the present tract, is the *manuum consertio*, which formed portion of the symbolic action which took place in the process known as the "*sacramentum.*" This

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* Id., sec. 143.

† Id., sec. 144.

proceeding appears to be nothing else than a personal conflict between the litigants, fought out over the subject matter in dispute; if the subject of dispute was such as could not conveniently be carried or led before the prætor, a portion was brought into court, and the formalities were enacted over it as if it were the whole (*deinde in eam partem quasi in totam rem præsentem fiebat vindicatio*). If it was a flock of sheep or herd of goats, a single sheep or goat, or single tuft of hair was brought; if it was land, a clod; if it was a house, a tile, (Gaius IV § 17 Poste's translation). The essence of the action was an actual combat over the subject of dispute; a mere personal conflict apart from the subject matter in dispute was not sufficient to compel a submission to arbitration as to title; the actual "*res*" or its symbol must have been fought across by the contending parties. It is remarkable how far even at the date of Gaius, the original form in actions as to the possession of land had been symbolised for the convenience of the parties. Originally, when land was the subject of controversy, the prætor repaired with the litigants to the spot, and they there performed in his presence (*in jure*) the ceremony of the *manuum consertio*. At this stage of the procedure, the breach of the peace was designedly produced in a symbolic form, but every thing else was real. When, however, the Roman territory became too extensive for the prætor to attend every such fictitious combat, the ceremony was adapted to the change in circumstances, the presence of the prætor was dispensed with; the parties, accompanied by their respective witnesses, performed the *manuum consertio* upon the ground in dispute, and carried a clod
portion thereof to the prætor, and then matters proceed
as if the prætor had been present upon the *locus in q*
during the performance of the ceremony. Subsequently
necessity for the litigants to resort to the lands in disp
was dispensed with; they left court and again return
being assumed that they had in the meanwhile repai
the lands in question; that is that the statement that
had been a *manuum consertio* became an untrave

allegation in the pleading, and of course was soon absolutely dropped out and disregarded.*

The Brehon procedure for the recovery of land is identical with the Roman form up to the point at which the contest for possession was reduced to a mere symbolic formula; probably from the small extent of the tribe lands in which such disputes arose, the further step of substituting an untraversable allegation that a conflict had arisen for an actual or simulated conflict did not occur to the Celtic lawyers; but the procedure, although crystalised in this archaic form, was modified to suit the circumstances of different cases, and was adapted to admit what in our present system of English pleadings would be described as a counter-claim.

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* Mr. Poste in his edition of Gaius (p. 499, 2nd ed.) asks the question, "What was the exact nature of the 'manuum consertio?'" Upon the analogy of the oath taken by the parties in the wager of battle in the old English law he conjectures that the term was equivalent to *δεξίωμα*, an oath or pledge that the party believed in the justice of his case; in the first edition of his work he adds, "It must be confessed, however, that none of our authorities allude to the oath (jusjurandum) having formed a part of the procedure by sacramentum, and possibly the manuum consertio was merely a symbolic battle." In his later edition he adds "Is it possible when we consider the common Aryan descent of the Romans and our Teutonic ancestors to suppose any connexion between the forms of Roman and Teutonic litigation? Or, was manuum consertio merely a symbolic battle, an idle reminiscence of a process belonging to a period anterior to the existence of public tribunals, the period of self-help, when the remedy of the litigant was to redress his wrongs by the prowess of his own right hand? Or was manuum consertio, like Diductio and Vis ex conventu, a fictitious trespass necessary for the basis of the penal (?) proceedings by sacramentum? Or was it merely the means of identifying the subject of litigation?" (p. 500). The supposed analogy between the Roman action and the Wager of Battle is very doubtful. The English proceeding was one of the modes of arriving at a finding upon the issue of fact arising upon the pleadings, by an appeal to the Divine power to testify as to this fact by giving the victory to the party in the right. The assertion of right was an appeal to the Divinity by both of the combatants, who might be hired champions, but ought to be persuaded of the truth of their cause. Upon the result of the combat depended the finding, as to the question of fact, upon which judgment was entered. What resemblance there is between these cases it is difficult to see. There can be little doubt that manuum consertio is to be translated in its ordinary meaning as a combat, not a "symbolic battle, an idle reminiscence of a process belonging to an anterior period," but, *for the purposes of the suit*, an actual combat, as for the purpose of barring an estate tail, the recovery was an actual action, pleaded to and defended by the tenant in tail; and the judgment over in warrentee against the vouchee was full compensation to subsequent tenant in tail and the remainder men.

It is to be first observed that the introduction of the community for the purpose of compelling the parties to submit to arbitration, was quite independent of any intention or desire of the parties that there should be an adjudication as to their several rights to the land in question; it arose from the existence of the fact that two claimants were at one and the same time in possession adversely to each other of a certain piece of land. This is very clearly shown by a case cited in the commentary.* Ninne, the son of Matech, with three horsemen was on his way to Ulster; they unharnessed their horses upon certain lands, which had previously belonged to their tribe; this fact was unknown to them, they had no intention of making any claim to the lands in question, and their halt there was merely accidental. The occupier of the land required them to depart; "Then the two, who were with Ninne replied; 'It does not make our claim greater that we have unharnessed our horses here; it is not to claim our share therein.' (The occupier replies) 'This is not easy, for it was your own before; they shall not be left there for that reason.' *They did not know until then that it had been theirs before.* The person whose land it was drove their horses from it by force. They afterwards complained to Conchobar Mac Nessa concerning it, and he awarded a fine for unlawful expulsion upon the person who drove the horses out of the land, and an equivalent for what was driven off it, and he gave them lands in proportion to their family."

This story recognises the right of Matech to require an adjudication as to his rights in respect of the lands, although the King compounded this claim by an equivalent given out of his own lands. This bare fact of a contest for possession was gradually modified into a fixed procedure by which notice of the intended entry was served upon the occupier, and the transaction was witnessed and probably regulated by members of the tribe, the occupier given ample time to consider whether he would abandon the lands to the claimant, or submit the case to arbitration, and, finally, damages payable to the occupier for an illegal entry secured in the event of the claim proving unfounded. The entire process in its fully elaborated state was tedious, requiring, if the occupier simply remained quiescent, a period of not less than thirty days. For ten successive days (or at least on the first and tenth day) the claimant gave notice of his demand, and of his intention to enter if no answer were returned; on the tenth day, accompanied by his witness, and leading two horses by their bridles, he crossed the boundary, and remained upon the contested premises, but just within the march, for a day and a night; he then retired, and during the subsequent period of ten days (or at least on the middle and last day) repeated the notices previously given; upon the twentieth day he again crossed the march, with four horses and two witnesses, and advanced one third way towards the centre of the lands. If again he received no answer from the occupier, he withdrew, and for two days more gave notice outside of his intention to make his final and decisive entry; on the thirtieth day he again entered the lands with eight horses, and with witnesses of whom a certain proportion were of the chieftain rank (*flaiths*), and the others freemen (*feini*); upon this last occasion he advanced to the centre of the land, and took possession, unless the occupier submitted to arbitration. The prolonged period requisite for the notices and several entries, was intended to allow the occupier time to consider whether he would consent to arbitration; and the final entry was in such a form as to compel the occupier either to abandon possession, or actually to resist, for it is stated that, "unless law be offered to him before going over" (which must mean the crossing of the boundary on the thirtieth day), "it is not unlawful for him not to come out, until it is ascertained whether the land is his or not." If, however, the occupier distinctly refused arbitration, and contested the rights of the claimant, the lengthened procedure was unnecessary, and the matter was brought to an issue by an actual forcible entry and occupation of the lands in question; "if it be certain to him (*the claimant*) that law will not be given to him before going over" (*i.e.*, before he has crossed the boundary upon the thirtieth day), "it is not unlawful for him that he has not given notice, provided that he has brought the means of taking possession"; and again; "if it be certain to him that law will not be ceded to him, it is guiltless for him to go over with all his cattle."

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* Page 5.

The symbolism of the procedure is evident; the claimant is to enter upon the lands in such a fashion as to show that he is not seeking as a traveller to cross the piece of ground in question; he does not drive his chariot into or upon the lands, for in such case his intention might be ambiguous; his horses must be loosed from the chariot, and led by the bridle as if to graze; the duration of the first entry is intended to prove by a lengthened sojourn within the fence that his claim was not to traverse but to occupy; on the first two occasions upon which an actual conflict is not anticipated, he is attended by a witness or witnesses to testify to the performance of the essential act; upon the third occasion he is accompanied by witnesses, who must consist of members of the noble and of the free class of the tribesmen. The necessary presence of the former is remarkable; it is very probable that they are representatives of the community, whose office would be two-fold; either to intervene as the Roman prætor in the *actio sacramenti*, if an actual conflict occurred, or if the occupier abandoned the possession to recognise the claimant as the legal occupier of the land. That the arbitration must have rested upon either voluntary submission or actual conflict, is manifest from the statement that the result of an unresisted entry on the thirtieth day by the claimant, not followed by a submission to arbitration by the occupier, was not in the nature of a judgment *in rem*, but merely legalised the plaintiff's occupation until the question of right was decided; and this continued legal occupation had no other result than to inconvenience the occupier to such an extent as to compel him to discuss before the professional arbitrator the question of right.*

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* The Welsh process for the recovery of land is analogous to the Irish. "There are three kinds of dadenhudds of land; and these dadenhudds are, a dadenhudd by tilth and ploughings, a dadenhudd by car, and a dadenhudd by bundle and burden."

The symbolical acts by which a man expressed his intention of subsequently taking possession, and which upon the last entry amounted to constructive possession, were manifestly unsuited to the case of a woman; it was necessary for her to represent in pantomime the incidents of *her* ownership, and if she failed in the appropriate details, the ceremony was wholly useless for the purpose of putting the occupier in such a position that public opinion would require his submission to arbitration; thus when the Brehon Sencha, with the design of causing the process to fail, declared that the formulæ in the two cases were the same, blotches arose on his cheek as a punishment for his unjust advice; nor was he cured until his daughter Brigh communicated to the female claimant the requisite symbolic acts for the purpose of establishing her right to force the occupier to an arbitration.

The exclusive possession of the knowledge of such ancient forms was in all early societies the basis upon which rested the

"And these dadenhudds are not to be prosecuted except by the son, in the place where his father was theretofore, or in the place where his parents were formerly; for a dadenhudd is not to be sued by kin and descent."

"Whoever is to prosecute dadenhudd by tilth and ploughing, is to remain upon the land, without answering, until he may turn his back on the stack of the forthcoming harvest, and that without answering to anyone, and the answer; and the ninth day from the following calends of winter, law."

"Whoever is to prosecute dadenhudd by car, by having been with his car and his household and his hearth, belonging to himself, or to his father before him, upon that land, is to be there, without answering, until the ninth day, and then give an answer; and at the end of the second ninth day proceed to law."

"Whoever is to prosecute dadendudd by bundle and burden, by having been with his bundle and his burden, his fire, himself and his father before him using a hearth, upon the land, is to be there, without answering, three nights and three days, and give an answer; and at the end of the ninth day, law."

"And the dadendudds are not to be adjudged to anyone, unless there shall have been a grant and delivery of the land to him previously by the lord." (Ancient Laws and Institutes of Wales, vol. i., p. 171.)

It is to be observed that these forms of action are confined to claims founded upon actual ouster, or by lineal descent to lands granted to individuals in several property. The narrow limits within which a claim by hereditary descent were restricted by the Welsh law are subsequently explained in the section of the Introduction dealing with the *fine* and the *geilfine* organization. The full details of the procedure in such cases are in the same work, vol. ii., p. 277.

power of the sacerdotal or patrician classes. If the correct fulfilment of ancient traditional litanies, or the dramatic performance of a complicated pantomime, was necessary for every tribe man who desired to accomplish his devotions or to assert his right, the class, which possessed the traditional and requisite formulæ, exercised an undefined but unlimited influence over the uninitiated lower order. The first step towards the establishment of original judicial power, was the publication, or perhaps the vulgarisation, of the antique formulæ. A knowledge of the custom was practically useless unless accompanied with the further knowledge of the appropriate form of action; hence immediately after the passing of the Twelve Tables a further effort was made to prescribe regulations for the forms of procedure, or the actions of the law (*leges actiones*); and hence the severity of the blow inflicted upon the Patriciate by the devulgation of the formulæ by Flavius Fimbria. There is some inconsistency between the text and commentary as to the form pursued by a female claimant, but upon the whole the principle of the variance between the two ceremonies is obvious; the symbolical acts to be performed by a woman represented the ordinary incidents of her occupation of the land; for the horses led by the man, in her case were substituted the same number of sheep; the period of thrice ten days was in her case reduced to thrice four days; she made three successive entries, first, with two sheep and one female witness; secondly, with four sheep and two female witnesses; and lastly, with eight sheep and three female witnesses; the text cites what must have been considered the leading case of the woman Ciannacht, which contains further particulars of the procedure which had apparently fallen into disuse before the date of the commentary. It was necessary for the claimants of either sex upon the first entry to remain a full day and night within the fence, and by the commentary it appears that upon the second entry also it was necessary for the woman to remain for this period upon the lands; the witnesses therefore who accompanied her upon these occasions were women, not men; but upon the occasion of the third and final entry she "claimed her right with a male witness." Whatever be the reason that upon the two first entries the witnesses were female (as to which the gloss gives a curious explanation), it is evident that the witness upon the occasion of the third entry was required to be a male, and we may infer that this arose from his fulfilling not merely the duty of witnessing the transaction, but of intervening, in the name of the community, in the manner above suggested. The original also represents Ciannacht not only to have driven the appropriate number of sheep into the land, but also to have carried with her a sieve, a kneading trough, and a baking instrument (probably a griddle); these articles clearly indicated her intention not merely to enter, but also to remain upon the lands, and to perform the duties of her position as housewife.

This ceremonial, necessary as a general rule for the assertion of a claim to the possession of lands, was, from its nature, in some instances impossible, and in many inconvenient; and the form was therefore varied to suit the peculiar nature of the case, hence the passage in the text:—"There are seven lands with the Feini—into which cattle are not brought for entry; it is men that are required" (p. 7); and that in the commentary:—"the same number of cattle which is brought to take possession of the other lands is the number of men that shall be brought to take possession of these lands" (p. 9). The two first cases excepted are those in which the entry with horses was absolutely impossible, viz., (1) a dun fort without land, or (2) a church without a green; the four next exceptions are cases in which the horses to be brought upon the land would be exposed to some necessary peril, viz., (3) "a land upon which there are plunderers," which is glossed as meaning a land upon which the cattle have been killed; this is a very ambiguous expression, and may bear two entirely different meanings, according to the reference of the term "plunderers," either the persons in occupation, or to third parties; the general object of the exception is that the claimant should not be obliged to go through the details of the ceremony, if there were reason to anticipate his horses would be injured or stolen; (4) an island into which it would be impossible, without great inconvenience, to bring the horses; (5) land the cattle upon which were suffering from murrain; (6) land the cattle upon which were upon certain contingencies liable to be seized by some local potentate in exercise of some customary right. Two instances of lands of this description are given; the lands of Tir-Mudhain, the cattle upon which were forfeited to the King of Caisel on the day on which he assumed the sovereignty, because the inhabitants of the lands had killed a former King of Caisel; and the lands of Rod-Adamair, the cattle upon which were similarly forfeited to the Coarb of Lismor the day on which he assumed the Abbacy, a custom explained as the reward granted to Saint Mochuta, the founder of Lismor, for having expelled a serpent out of the lands in question. In both these instances the lands were subjected to some curse or penalty, in expiation of the sins of their former owners, and such exceptional rights should not be confounded with any of the feudal incidents; (7) the last excepted case is that of "land which the chief divides after the death of the tenant (occupier), where a hole is made, where a stone is put." It is evident that this passage was ambiguous to the glossists and commentators; the immediate gloss upon the text is perplexed and contradictory; it seems to explain the exception as referring to any proceeding on the part of the chief to re-enter upon a portion of the tribe land (dibadh land), after the death of the member of the tribe to whom it had been allotted, for the purpose of redistributing it. In a later passage of the text, which occurs in page 21, there are two classes of land excepted in the following words, "except *in the case of* the lands of Conn Cetcorach, or *of land* devoted to the support of a mansion which is a Nemeadh-person's," the latter of these exceptions manifestly corresponds with the sixth exception of the passage in the 7th page, and it may be assumed that the former exception, in the latter passage, agrees with seventh exception in the earlier portion of the work; this is rendered certain by the explanation in the gloss that the phrase "Conn Cetcorach's land" denoted some particular portion of the "dibadh" land; the gloss in page 23 explains the exception as referring to a contest between tribesmen upon a re-distribution of the land by the chief, but adds the very difficult passage, "as to the land which is lent or let for rent, it is into it the requisites for taking possession are brought." That the ancient ceremonial should be exclusively (or at all) applicable to lands let upon rents, is highly improbable, and it is in contradiction to the cases of Ninne son of Matech, and Ciannacht, which were evidently considered as leading authorities. The only explanation of the gloss which can be suggested, is that the glossist intended to distinguish the two classes of lands; those held in common by the members of the tribe, and divided and re-divided among them by the chief, to which the entry with horses was not necessary; and those held by members of the tribe in severalty, to which the ceremony was applicable; but that at the date at which the gloss was written the free members of the tribe had been reduced to the position of paying rent to the chief for the land held in severalty, and that thus the payment of rent had become one of the incidents of several ownership.

The claimant having, however symbolically, asserted his claim to possession of the lands in question by a forcible entry, if he failed to sustain his right, became a trespasser *ab initio*, and was bound to pay damages to the defendant whose occupation he had wrongfully disturbed. Every step in the procedure had to be taken in such a manner that the damages for the entry, if wrongful, were *ipso facto* secured to the defendant. In the case of a male claimant, every witness, whom he brought with him on each occasion, was to be of an honour price equal to the value of the land. The fine for the entry fell upon the claimant and his witnesses, who, most probably, in the subsequent proceedings testified to the validity of the claim, and it would seem that when the claimant, after the third entry, was put into possession of the lands in question, all the stock and other property brought in by him upon the lands, were charged with the damages ultimately to be found payable to the defendant if the claimant's case failed; and it may be conjectured that in the original form of the action the claimant was bound to put on the land upon the occasion of his third entry stock equivalent to the value of the land; such at least seems to be the passage in the text:—"If there be Fenechus," (submission to arbitration conceded as a customary right), "speedy judgement is passed in his favour. If there be not Fenechus, lawful possession *is given*; its price is to be offered with sheds, cows, food, habitations, attendance of cattle, except in the case of the land of Conn Cetcorach, or the land devoted to the support of a mansion which is a Nemadh-person's" (p. 21).

The exceptions prove the rule that it was necessary in all other cases to bring in the equivalent in property. If this be correct the analogy to the *actio sacramenti* in all its essential points is complete; and the property to be placed upon the land represents the subject matter of the symbolic wager. This system of counterclaim was strictly logical, and founded upon the mode in which such transactions were regarded by a tribe in an early stage of civilization. The symbolic act was regarded as a real and *bonâ fide* transaction, and all the consequences followed from it, which should have followed if the thing dramatically represented had really taken place; the ceremonial was a short-hand mode of writing, but was for all purposes that which it represented. The defendant was forced to arbitration upon the assumption of an actual conflict, arising out an actual adverse entry; the claimant could not deny the reality of the trespass, which was the basis of his claim to obtain a judicial decision of his rights, and was estopped from trasversing this fact when the defendant sought in his turn damages for the wrong symbolically inflicted. Thus, among the Maories, when a man guilty of manslaughter expiated the offence by submitting to the form of being wounded by the avenging kinsman, he was considered as absolutely dead for all purposes; he lost his status as a member of his tribe; his property was divided as if he were actually dead, and he was, as if a stranger, reintroduced into his original tribe by the ceremony of adoption.

The amount of the fine to be paid by the unsuccessful claimant, as may be anticipated, varied, according to the Brehon Law, with reference to the various circumstances of the case. "If the nobles have entered over a full fence, and it is a land which has not a chief and a tribe, it (*the fine*) is a "Cumhal" and forfeiture of stock. If *they have entered* over an half-fence it is three-quarters of a "Cumhal," and three-fourths of the stock. If *they have entered on land* which has not any fence at all, it is half a "Cumhal," half the stock. The stock only is to be divided by the plebeians, and half a "Cumhal" *is the fine if it be* in Cain-Law.* If it be land that has a chief and a tribe, it is forfeiture of the stock with a "Cumhal" *fine, if entrance be made* over a full fence, and one half if there be no fence at all; and this is the same with respect to plebeians and nobles" (p. 25).

The peculiar distinction in this passage between land which has a chief and a tribe, and that which has not a chief and a tribe, is worthy of observation. The original translation has in many passages given this meaning to the words in question; it must, however, be confessed that this translation is most unsatisfactory; it implies the existence of extra tribal land, a fact most improbable in a country such as Ireland, in which there was no fringe of unsettled lands between the Celtic occupiers and an anterior defeated population; the whole island was divided into distinct and very well-defined tribe districts; neither between the tribe-marks which must have been everywhere conterminous, and still less within their limits, could there have been established independant landholders, disconnected from the prevailing system of society. It is to be observed that the word in these passages translated "tribe" is "coibhne," which is translated "hereditary right" by the same translator in such passages as "land to which he thinks he has an hereditary right" (*coibhne*); and the word *coibhne* itself is frequently used as designating a particular class of property in land, coibhne-land as contrasted with dibadh-land.* The term must signify both the nature of the right of an individual to certain landed property of a particular character, and also the land which was itself the subject matter of such a right. In the original text (page 39) the claims of heirs of females are spoken of as affecting "coibhne"-land, and it may be reasonably concluded that the coibhne-lands were those which had been allocated in severalty to distinct families, and were descendable in the families of the original real (or supposed) præpositus. The tribe lands, being those held in common by the members of the tribe, are manifestly described as the dibadh-lands, in which the share of each occupier was for life only. If this conjecture be correct, the passages in question should be translated "Lands which have not an owner in severalty, and hereditary transmission"; *coibhne*-land would thus be equivalent to the Norse "*udal*"-land; and the same word when used to express the right of an individual to such land (or his share therein) would correspond to the well known term "udal-recht." If this conjecture be correct, much of the apparent difficulties and contradictions in the text and commentary would be removed. We find in this tract four distinct classes of land to which the prescribed process of formal re-entry is unapplicable, having reference to the nature of the estate in the land, and not to the locality or intrinsic circumstances; the three more important of these are the following; first, the land described in the text at page 7, in the passage above referred to, as "land which the King divides after the death of the tenant, where a hole is made, where a stone is put"; whatever be the precise meaning of the rule, the text refers to dibadh-land redivisable after the death of each occupier; secondly, "the land of Conn Cetcorach", which also is explained to mean debadh-land, and, thirdly, the land which has not "*cund*" or "*coibhne*." If the third class of land is simply a negative description of the lands included in the preceding passages, the meaning of all these passages is simple and clear, viz., that the common tribe lands, distributed from time to time among the general members of the tribe for agricultural purposes, and meared by distinct mounds and boundary stones set up by the executive of the tribe, and in which the owner had only transitory interests, were not lands to which the process of recovery of possession by entry was applicable. The fourth excepted class of lands, viz., those subject to the rights of some Nemedh person, are lands upon which the process is rather facilitated than prohibited, in the interest of the claimant. It is a common error to assert that all lands in Ireland under the Brehon Law were held as tribe lands, and that the entire tribe were the owners of the lands comprised in the tribe-district; it is manifest that much land was held in severalty, and upon such terms that individuals had specific rights in distinct lands, either by hereditary descent, or as founded upon contract. It is quite possible that lands should be cut out of the general tribe-land, and become the subject of several ownership and hereditary rights, without their vesting in any individual in absolute property. Portion of the tribe lands may have been acquired by a single family, or by an individual on behalf of himself and his family or possible descendents, and these may have been transmitted by hereditary succession, or sold without any one person acquiring the rights which are implied by the English term in "estate"; lands may be enjoyed in severalty as between the family and the tribe, but jointly as between the members of the family itself. Such were the principles of the Norse udal tenure of land; and some such system of land-holding seems to be the basis of the Celtic Geilfine system, which it is proposed to deal with in the following section.

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* Was the forfeiture of the stock absolute in the case of land without a chief or tribe? or did it in this case also depend on the result of the action? Although not without hesitation, we adopt the former theory, viz., that in the case of such lands the stock was absolutely forfeited, because the form of action was inapplicable. That the forfeiture was absolute may be gathered from p. 27, line 24, and p. 31, line 31.

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* *Cund*, or *conn*, is simply a form of the word meaning "head," and, as applied to an individual, must be a correlative term, indicating the position of the individual specified in relation to one or more others. The idea implied by the word "coibne" is that of the issuing out and interlacing of various branches springing from one common stock, and it thus means an association of persons grouped together with reference to a common right or subject-matter. This is exactly the ancient idea of the ownership of "hereditary" lands, not land in its entirety transmitted from one individual to another, according to certain rules of succession (which is our modern conception of heirship), but land in which all the descendents of the original acquirer jointly take an interest. This coibne property means property held jointly by the acquirer and his descendents. The head of an actual or potential family would be the cund, or conn; and if the family were organized on the geilfine system, he would be then identical with the "geilfine-flaith." Dibadh property, in its original sense, as contrasted with coibne-property, seems to express any property divisible, or to be divided, among several distinct persons. The necessary equivocal use of such terms is hereafter referred to in a subsequent section.

A curious exception to the necessary formulæ occurs in the case of individuals described as "*raitech*"-persons. A *raitech*-person is defined in the commentary as one "who was up to this time (*the time of the action*) abroad, *living* apart from the tribe, and who does not know that he has not land, and he comes with his cattle, and his neighbours say the land is his, and judges tell him to go as far as the third of the land" (p. 29).

The *raitech* was therefore an acknowledged tribesman, who, after long absence returned to his tribe, and, upon the information given to him by members of the tribe, proceeded *bonâ fide* to assert his hereditary right to the coibne-lands of his family.

The *raitechs* were divided into three classes; the two first were the man who had got into failure, and the man who had deserted upon failure; both these classes comprise those who had lost, or failed to obtain, any share in coibne-land, and were so to say "out on the road"; the third class of raitech is defined thus, "The King is called raitech, because he owns his share of waifs of his road, and also from his generosity." (Page 31.) The introduction of the King into the class of broken men is probably due to a fanciful play upon words; it may, however, be observed, that the King, who claimed a share in any coibne-lands in a tribe territory, would probably be resident outside, and would find it difficult to carry out the full ceremonial in the prescribed fashion.

The broken man returning to his tribe would find it impossible to drive his horses upon and off the land in dispute at the proper periods; he had no house or "green" of his own to resort to in the meanwhile; and what was more important, he was not in himself a security for the damages the occupier could recover, if the claim proved to be groundless. He was therefore permitted to graze his horses upon the lands during the intervals between the entries, paying a fixed price for the grazing; and, if the case were decided against him, he was allowed three days to clear out, and, subject to the payment of the small damages of three "seds," he was permitted to drive off his beasts (p. 27).

The original text, and the detached instructions in the commentaries, contemplate the use of horses exclusively in the symbolical entry; and horses appear to have been both the original, and at all times the preferable stock for the purpose. In the gloss an illegal entry is defined as "the bringing illegal means of taking possession into land, *i.e.*, cows after horses when he could find horses," the fine for which was a "cumhal" or forfeiture of stock, or three "seds"; the glossists are at variance as to the precise amount (p. 33). It is evident that at some period cows were substituted for the horses, which in the original ceremony were indispensable. There appears to have been some distinction, certainly, as to the amount of fines, between the case of an entry to recover possession made by a noble, and one made for a similar purpose by a simple freeman, or plebeian, as it is translated. It may be conjectured that this form of action was, in its origin, confined to the recovery of lands by the patrician or noble class, and that the horses and chariot were the symbol of military possession, as was the lance (at later time represented by the wand) in the case of the Romans; that a similar form of action was invented for the benefit of the lower orders, and that ultimately the two formulæ were confounded, although it was always understood that the claimant only used cattle instead of horses from necessity, and that he was not at liberty to substitute them for horses "when he could find horses."

The forms of the Brehon procedure for recovering the possession of land ended with the reference of the dispute to arbitration; the object of the process was that his right at law should be granted to the claimant; that there should be "Fenichus"; the pressure was put upon the defendant that there might be "Fenechus," a proceeding or judgment in accordance with the custom of the tribe. Thus the whole ceremony of the Roman *actio* ended with the appointment of the *judex*. The ancient procedure ended precisely at the point where the modern commences. As to what is now considered the essential of an action, the pleadings in court, Gaius dismisses it in very brief terms; "deinde quum ad judicem venerant, antequam apud eum causam perorarent, solebant breviter ei et quasi per judicem rem exponere; quæ dicebatur causæ collectio, quasi causæ suæ in breve collectio." (Gaius IV. 15.)

To understand this we require only an account of the mode in which a dispute is decided in an Indian village community. The case is submitted to the entire body of the inhabitants, who represent the original tribe, or family, to the patricians in fact of the small "civitas." The body thus assembled combine in themselves the functions of witnesses, judge, and jury. They include in their number all those who knew the facts of the case, "the respectable men of the neighbourhood," so familiar to us as our ancient form of jury. They themselves are the living testimony as to what is the custom of their community, and this custom they apply to the facts of the case assumed to be within their own knowledge. The villagers talk over the case among themselves, apparently in a very confused manner; separate groups form, who discuss the question in various ways; but at length a result is evolved; there is a general consensus arrived at, and the judgment is given in a purely concrete form. In Mr. Wallace's description of the confused discussion and ultimate result of a meeting of a Russian Mir to assess taxation and divide the village lands, we have a vivid description of the workings of such a primitive assembly. At this stage of civilization it is clear that there was no form of procedure after the submission to arbitration. When the community had grown too large to sit together and decide as one body upon the case, a committee of the entire body would be appointed to hear and decide the dispute. This stage of the judicial development existed among the Icelandic Norse. Of this procedure there are the most detailed accounts in the two trials before the Althings related in the Saga of the Burnt Njal, and before referred to. In these cases it is evident that the defendants were not bound to submit to the jurisdiction, unless the preliminary ceremonies were accurately gone through, and the judges selected in accordance with the custom. Numerous points of the utmost nicety are raised by the defendants to every step of the action, and equally technical replies are made on behalf of the plaintiffs. These very special points of practice are decided by the general assembly, because they were antecedent to the creation of the court. But it is something very foreign to our ideas that the judges, when at last legally appointed, neither hear any speeches from the parties, nor examine witnesses; they retire from the public meeting, talk the matter over, and come to a decision on grounds wholly apart from what we should consider the merits of the case. When a society became numerous, and its customs complicated, the general public naturally felt their own ignorance of the traditional rules by which any cases should be decided, and there arose a necessity for experts who had made the knowledge of the traditional custom their special study. The Icelandic Norse clung tenaciously to the custom of a public assembly, and solved the difficulty by the appointment of the "Speaker of the Laws," who attended the Althing, and was its professional adviser.[*] The Celtic Irish lost the ancient custom of the general assembly, and the decision of what the local custom was, fell into the hands of the Brehons, the hereditary and professional possessors of the secret of the custom. But the Brehon was not a judge in the modern sense of the term; he represented the assembled tribe, and when he had once got possession of the case there were no sacred formulæ to prescribe the mode in which it should be conducted. It is evident that the reference of the dispute to a single individual, in whatever character he acted, necessarily introduced new elements in the procedure; the court no longer could be held not only to decide upon the law, but also to testify what the actual facts were; hence the introduction of pleadings (*causæ collectis*), the full statement of the case (*peroratio*), and the examination of the witnesses, and also the arrangements for the remuneration of the judge. The foundation of the jurisdiction of the Brehon, as simply the professional witness of the local custom applicable to the facts, (and unable to apply to the case, what in English law is termed "equity," the appeal to an over-ruling moral law antecedent to or over-ruling the technical law when it worked injustice,) is illustrated by the rule (page 51), "Constant is every old law of every territory of covenants. When any territory is uncovenanted, it is then every disputed case is brought before the King." By a "territory of covenants" is meant a district in which there was an established custom, supposed to rest upon the "consensus" of the tribe, and which was testified to by the local hereditary Brehon; "territory

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[*] "In those days there were no books; everything was traditional; the law itself was committed to memory and the custody of faithful lips. Time out of mind there had existed amongst the nations of the north men who, like Ulfljót, had made the customary law their study, and learned its traditional precepts by heart. There were the lawmen or lawyers (lögmenn), a class which we shall still find flourishing in the time of which our Saga tells. They were private persons, invested with no official character, but who enjoyed all the influence which an exclusive knowledge of any one subject, and, most of all, of such a difficult subject as law, must necessarily give to any man in an early state of society. But when

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the Althing was established, we first hear of a law officer properly so-called. This is what we have called the "speaker of the law." His bounden duty it was to recite publickly the whole law within the space to which the tenure of his office was limited. To him all who were in need of a legal opinion, or of information as to what was or was not law, had a right to turn during the meeting of the Althing. To him a sort of presidency or precedence at the Althing was conceded, but with a care which marks how jealously the young Republic guarded itself against bestowing too great power on its chief officer. He was expressly excluded from all share of the executive, and his tenure of office was restricted to three years, though he might be re-elected at the end of the period." Dasent, Burnt Njal, p. lvi.

The judicial power in Iceland was vested in the Court of Laws, composed of the priestly heads of the original families, each with two assessors, whom the official lawyer instructed upon any point of law, if requested to do so.

uncovenanted" is glossed "where the defendant or plaintiff has not a Brehon," that is, when the community has failed to retain a record of their customs by the appointment of the regular witness to the existence and nature in the person of the Brehon; in such a district there was no law to be applied to the question in dispue. In this case therefore the King himself was the judge. From this passage we may infer that at a very early date the general meeting of the tribe, which did continue to meet for some purposes down to a late period, had lost its judicial power, and that the King had acquired the powers and position of the assembly of the tribe, or, which in this case is more probable, there still hung about him certain surviving fragments of his ancient judicial function.

When a professional or hereditary class undertake the duty of recording and transmitting the customs of the tribe, the hitherto indefinite custom, or habit of acting in a particular manner, is necessarily reduced to the form of short rules committed at first to memory, subsequently to writing. Two fragments of these ancient dicta occur in the present tract (p. 39 and p. 45). The difficulty of translating passages of this nature has already been referred to, but, difficult as is the task of translation, more so is the attempt to extract from them and develop at length, the customary rules dimly hinted at, rather than embodied, in the curt and oracular sentences. An attempt is here made by the assistance of the glosses and commentary to express in distinct terms the substances of these passages. The following is submitted to the criticism of the reader by the editors, as a result of such a comparison, but made by those who can claim the possession of no source of information, which is not available to the ordinary student.

(I.)

1. The sons, and, if there are no sons, the daughters of their mother, claim a right to enter upon and take possession of the lands, in respect of which legal contracts for full consideration, and dealing with coibue-land, had been

made with their mother, for the geilfine chief, who must for this purpose be one of the geilfine division,* confirms the contract.

2. Brigh made the decision, which fixed the rule of succession to lands in respect of which contracts had been entered into upon the occasion of a woman's marriage.

3. The lands are divisible with reference to the number of the members of the family inclusive of the grandchildren, and the great-grandchildren, but of the land thus divisible is excepted one-seventh, which becomes the property of the geilfine chief. This one-seventh is fixed with reference to the extent of the lands themselves.

4. On the extinction of the class of great-great-grandchildren, their land goes back to the other classes representing the three prior generations; in such case it is divided among the classes representing the three prior generations; on the extinction of the great-great-grandchildren class the other classes of the family became the owners. It is not divided among them in other proportions than the liability for the wrongs done by members of the family; and, therefore, in such a case the class representing the sons gets no more than one-fourth part.

5. When the members of a family exceed seventeen in number, they cease to be organized as a family.

6. The fuidhir-tenants are not subject to any joint liability for wrong committed by their kinsman, unless they form five house-holds of them, completely organized as a family, upon the principle of mutual liability.

7. If the fuidhir tenants consist of five households, organized as a family, under a chief, and having sufficient stock, they divide their property among them, as do the members of the family, and are subject to liability for each other's deeds in the same proportion.

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* It is subsequently suggested that the expression, "Unless he be the sixth," may be taken in its literal sense as meaning the sixth head of the family in lineal descent, a construction of the words which, in the view subsequently taken of the geilfine, would be practically equivalent to that in the text.

(II.)

1. A son does not succeed to all the land of his mother, unless he claim it through her by virtue of a marriage contract of which the family had notice (*i.e.*, unless it be "*cruibh*" or "*sliasta*" land).

2. (As to lands other than "*cruibh*" or "*sliasta*" lands), her sons divide it upon her death, but (*they do not succeed to the entire*) for one-half reverts to the family of the (*her*) father; the remaining half only her sons divide.

3. The half, which reverts to the family of the (*her*) father, the members of that family duly divide among themselves.

4. In the case of a "*bo-aire*" chief (who dies without leaving a son) there comes to his daughter by right of relationship no more than one-half, *i.e.*, fourteen "cumhals" of land if the deceased had twenty-eight "cumhals" of land. The same rule applies to the "bratach" lands of a "bo-aire" chief.

5. Land given by the family to the deceased to the used as a road, upon the terms of his restoring it, is to be restored by his daughter, if she succeed, in its entirety; but she is to be paid by the family upon giving it up, one half the value of it.

Of these rules, those numbered I., 1–5 appear to relate to the mother's *cruibh* and sliasta lands, and are framed with the view of regulating that succession in accordance with the principles of the geilfine organization, which are subsequently discussed in this Introduction. The rules numbered II., 1–3 deal with the succession to a woman's other than cruibh and sliasta land; and those numbered II. 4 and 5 deal with the succession of a daughter, in default of sons, to her father's land. The very remarkable rules, I. 6 and 7, do not appear to have any immediate connexion with the question of female ownership of land. It would be premature here to consider the meaning and operation of these rules until the nature of the family itself and of the geilfinne system has been to some extent established, and the proposed explanation of the system of descent is, therefore, postponed to a subsequent section.

It remains to draw attention to some isolated rules in the latter portion of this tract as illustrative of the nature and date of the Brehon Law. The first paragraph, to which attention is desired to be drawn, is the case of Seither in the original text (page 17). She claimed as against the chiefs of the tribe, certain lands which they had taken possession of; the glosses explain this by their having erected boundaries, or set up stone landmarks; comparing this with the passage in page 7, where "dibadh" land is described as "the land which the chief divides after the death of the tenant, where an hole is made (or, *a mound is raised*), where a stone is put," her ground of complaint was that the chief of the tribe had measured off as common tribe property, the land which she claimed in separate ownership. Her father and mother were of different tribes, and her right to the land was established. She then sought that she should not be subjected to the imposts which fell upon the unfree holders of land ("*fuidhirs*"), nor should she be expelled from the land (put out into the road), for failure to perform the military duties incident to the possession of the land. She was freed from this obligation (of military services) by her tribe, according to the rule "that female possession reverts, *i.e.*, that one-half of the land, which passed to a woman, falls back into the general tribe land, and that in consideration of this the tribe releases the residue during the female owner's life from the duties incident to the possession.[*] It is clear from this rule that

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[*] These rules, as far as they deal with the succession of women to land, or the succession to the land of women, must be taken to represent the effect of the judgement of Brigh which established the rights of women.

The rule that women, as being incapable to do military service, should forfeit one half of the inheritance, could be introduced only after a date at which the military incapacity of women was an acknowledged fact.

This would bring down the alteration of the law of succession in the favour of women to a date subsequent to the year 697. "Connected with Adamnan's journey to Ireland in 697, the Annals record a transaction, which they despatch with enigmatic brevity: *Dedit legem innocentium populis.* In other words, they allude to a social reformation, which was brought about by Adamnan, and which, having obtained the highest sanction of the people, became, as in the case of many modern Acts of Parliament, associated with the name of the propounder. A synod was convened at Tara, within an enclosure called the *Rath-na-Senadh*, or "Rath of the possession of any portion of the tribe land entailed the duty of military service; but that this was an incident to the possession of land by a free member of the tribe (as the "trinoda necessities" of the early English Law), not a feudal service due to the chief of the tribe. The contradictory glosses upon this passage prove that the commentators were unable to explain the point of the division, and that the condition of society had then materially changed since the date of the original text. The note to this passage, printed at the foot of page 17, shows how the later commentators had lost the correct traditions of the law, and preferred the display of a scrap to genealogical information

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the Synods," where the memory of the chief actor was perpetuated in the name *Pupall Adhamhnain*, or "Pavillion of Adamnan," which was given to a portion of the space; also in the *Suidhe Adhamhnain*, or Adamnan's chair; the *Dumha Adhamhnain*, or Adamnan's mound; and the *Cros Adhamhnain*, or Adamnan's cross, situated at the east of the Rath. This moꞃꝺaıl, or "convention general," was held, as a semi-legendary record states, at the instance of Adamnan, for the purpose of procuring a national enactment exempting women from war and expeditions." "Reeve's Life of St. Columba," p. 1.

In relation to this law the following passage occurs in the "Vision of Adamnan," which is preserved in the "Leabhar Breac":—"It was this precept, too, which was preached in the great convention of the men of Erin, when Adamnan's rule was put on the Gaedhil, and when women were made free by Adamnan, and Finachta Fledach, son of Dunchadh, son of Aine Slaine, the King of Erin, and by the men of Erin also. For it was alike that men and women went into battle, and into conflicts, until the Rule of Adamnan was imposed."

"It is to be regretted that we have not a more historical account of the institution of this law than the following, which is taken from the Leabhar Breac and Book of Lecan:—'Adamnan happened to be travelling one day through the plain of Bregia with his mother on his back, when they saw two armies engaged in mutual conflict. It happened then that Ronait, the mother of Adamnan, observed a woman, with an iron reaping-hook in her hand, dragging another woman out of the opposite battalion, with the hook fastened in one of her breasts; for men and women went equally to battle at that time. After this Ronait sat down, and said, 'Thou shalt not take me from this spot until thou exemptest women for ever from being in this condition, and from excursions and hostings. Adamnan then promised that thing. There happened afterwards a convention (moꞃꝺaıl) in Ireland, and Adamnan, with the principal part of the clergy of Ireland, went to that assembly, and he exempted women at it." (Petrie's Tara, p. 147.) Reeves' Life of St. Adamnan, p. 179, note. It seems that Adamnan took occasion of a great religious revival to ameliorate the condition of the Celtic woman, and that the reform thus effected was considered as one of the great events, as it undoubtedly was, in early Irish history. The celebrated judgment of Brigh, certainly the rules embodied in this tract, cannot have been of an earlier date.

to the intelligible explanation of their text. Evidently for the purpose of getting in the names of her brothers, it is stated that she claimed against her brothers; the author of this cannot have understood the first line of the original text which is very clearly explained in the gloss; and the possibility of an adverse claim by a sister against brothers in respect of land derived either through the maternal or paternal side, is absolutely at variance with the express rule laid down in the commentary, page 15, line 33.

When the authentic tradition of the custom was once affected by the changes in the existing modes of life and dealing with property which must have arisen from the political convulsions to which the Irish Celtic nation was subjected during the historic period, the Brehon lawyers had no definite and abstract legal principles to guide them, and the analogies which they may have discovered in the Ecclesiastical and English systems, with which they came in contact must have been essentially misleading. There is, therefore, no reason to doubt the fact, which is patent upon the face of their writings, that the Brehon lawyers found much difficulty in dealing with the ancient texts, and have annexed to them the most varying and contradictory explanations.

In most early customary laws the validity of any transaction usually depended upon the performance of some prescribed mode of stipulation; the following passages are, therefore, worthy of notice as indicative of a very modern and equitable mode of viewing the essence of the transfer of property: "(*As to*) the person who buys without stealing or concealment, with purity of conscience, it (*the subject matter of the purchase*) is his lawful property, according to God and man; if his conscience is free, his soul is free."* There is in this passage an assertion of the doctrine of a purchase for valuable consideration without notice, and the title of the purchaser is referred to his moral condition at the date of purchase, not to the fulfilment of the requisite ceremony of purchase. The same idea is evident in the following passage, also: "Except the covenants which are forbidden by the Feini, nothing is due without deserving it, for every contract, which is unsafe, is entitled after nuptial present according to the Brehon, except in case of poverty, or prohibition, or want of power."*

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* Page 33.

In this passage there are involved the doctrines of consideration as the necessary basis for a contract, of purchase for valuable consideration and part performance, and of the rescission of the contract by an inequality in the condition of the parties which in equity would now cause an agreement to be set aside, or specific performance to be refused. In the latter portion of this paragraph "poverty" must mean such pressure of poverty upon one of the contracting parties as would prevent his acting as a perfectly free agent; and "prohibition," according to the gloss, the fact of notice affecting the purchaser that the vendor has no equitable title; "want of power" is explained as duress, or influence of a moral or immoral character.

There are other passages in this tract which lay down in a direct manner the ancient theory of society that the individual exists only as a member of some recognised community and therefore that his contracts are always subject to rescission by the head of the community to which he belongs. "There are four covenants which are not binding, though they (*the parties*) are proceeded against; *that of* a bondman with his chief; *of* a son with his father; of a monk with his abbot; *of* an "ulach" person with another if alone. For the chief, and the tribe, and the church may redeem (*rescind*) every good contract, and every bad contract which are made with their subjects, except what they themselves order them; for these are the three defective covenants mentioned by the Feini; the covenant with the subject of a church; the covenant of a servitor of a chief; a covenant with fugitives from a tribe."† The principle here laid down is clear and distinct, but even at the date of the original text it had become modified by the application of equitable principles, for the passage concludes thus: "They are bound not to be remiss about covenants, because if they should be remiss about covenants, then they do not annul the covenants of their subjects," which is an application to the case of the equitable doctrine of laches.

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* Page 59.

† Page 55. This statement, or one almost identical, is frequently repeated in the Brehon Law Tracts.

This passage is followed by a very obscure paragraph dealing with what are styled "*ternal covenants*," not agreements in our sense of the word but the legal results arising from the acts or omission of three persons in a certain relation. It is suggested that the passage may be illustrated thus; A contracts with B that the latter should do something affecting C, or which C may forbid to be done, and C having notice of the transaction does not interfere; and thereupon by reason of C's omission to do so the contract becomes binding upon him. This principle, (if our explanation of the passage is correct), is an excellent example of the equitable doctrine of "acquiescence."

The latter portion of this tract must be considered as a mere common place book of some Brehon, who wrote out in the blank pages which followed the first part, a number of independent dicta, as he learnt them, or as they occurred to his memory; very few of these rules have any connection with the subject-matter of the original work; there is little, if any, sequence of thought, and they manifestly are of very different origin in point of date; this latter portion is however valuable both on account of the very ancient rules as to the succession to land which are here preserved, and as illustrating the extent to which the ancient law was modified by equitable principles, a result doubtless attributable to the indirect influence of the civil law.[*]

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[*] "They speak Latin like a vulgar language, learned in their common schools of leachcraft and law, whereat they begin children and hold on sixteen or twenty years, conning by rote the aphorisms of Hippocrates *and the Civil Institutes*, and a few other parings of these two faculties. I have seen them where they kept school. ten in some one chamber, grovelling upon couches of straw, their books at their noses, themselves lying prostrate, *and so to chant out their lessons by piecemeal*, being the most part lusty fellows of twenty-five years and upwards." Edd. "Campion's account of Ireland," page 18 (A.D. 1571).

Mr. Prendergast goes so far as to speak of the Brehon as giving "his judgment according to the Brehon Code, formed partly of Irish customs, and partly of maxims culled from the Roman *Digest*." (The Cromwellian Settlement, 2nd edition, p. 15.) This is an exaggeration, fortunately for the antiquarian value of the Brehon Law Tracts.

III.

THE "FINE" AND THE "GEILFINE" SYSTEM.[*]

In all the Brehon Law Tracts there are references to an existing organization, generally known as the Geilfine system, and to the four classes designated as the Geilfine, Deirbhfine, Iarfine, and Indfine.[†] No distinct explanation of the system is anywhere given by the writers of these tracts, but it is everywhere assumed as existing, and of so well-known and notorious a character that it did not seem to our authors necessary to state its details or to lay down the rules by which it was governed. That it was familiar, or assumed to be familiar, to the students of these works is proved by the figurative use of the terms primarily indicating the members of this system as indicating certain definite relations of place; remarkable passages of this nature occur in the "Bee-Judgments"[‡] and the "Right to Water."[§] It is obviously impossible to understand the scope or meaning of many of the rules contained in the original text, or of passages in the commentary, without forming some clear conception of this peculiar organization of individuals assumed throughout, as pre-existing, and endeavouring to define the technical terms connected with this system, which so often occurs, used sometimes in a primary, and sometimes in a secondary sense. In the Book of Aicill, published in the last volume of the Brehon laws, there occurred a very remarkable passage, explanatory of the mode in which property was divisible among the members of a family in accordance with the rules of the Geilfine system,* and an attempt was made in the Introduction to that volume, to explain the rules laid down upon this subject in the commentary upon the Book of Aicill.† The explanation given by the editors of the preceeding volume of the passage, with which they were immediately dealing, has been to that extent admitted to be correct by the various authors, who have, since the date of the publication of the last volume, written upon the subject; and before any attempt to draw further deductions from the additional information, which is afforded by the law tracts now for the first time published, it may not be inexpedient to reprint the passage in the previous introduction dealing specially with this subject.

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[*] It was originally intended to have devoted a separate section of the Introduction to each of the Tracts contained in this volume; it was, however, discovered in the progress of the work, that owing to the identity of the questions which arose in certain of these Tracts, it was impossible to adopt this course without much repetition of previous statements, or an embarrassing amount of cross references. The sections III., IV., and V. of the Introduction are designed as dealing with the questions which arise upon the Tracts entitled "Of the Judgments of every Crime, &c.," "The Land is forfeited for Crimes," and "The Divisions of the Tribe of a Territory," and also with the rules of succession contained in the first Tract in the volume. The consideration of the remaining Tracts has been necessarily postponed until after the discussion of the question of the "geilfine" system.

[†] This word sometimes appears as "Innfine" or "Finnfine."

[‡] p. 173.

[§] p. 207.

"The most remarkable custom described in the Book of Aicill is the fourfold distribution of the family into the 'geilfine,' 'deirbhfine,' 'iarfine,' and 'indfine' divisions. From both the text and the commentary it appears that the object of the institution did not extend further than the regulation of the distribution of their property. Within the family seventeen members were organized in four divisions, of which the junior class, known as the 'geilfine'-division, consisted of five persons; the 'deirbhfine' the second in order, the 'iarfine' the third in order, and the 'indfine' the senior of all, consisted respectively of four persons. The whole organization consisted, and could only consist of seventeen members. If any person was born into the 'geilfine'-division its eldest member was promoted into the 'deirbhfine'; the eldest member of the 'deirbhfine' passed into the 'iarfine'; the eldest member of the 'iarfine' moved into the 'indfine'; and the eldest member of the 'indfine' passed out of the organization altogether. It would appear that this transition from a lower to a higher grade took place upon the introduction of a new member into the 'geilfine'-division, and therefore depended upon the introduction of new members, not upon the death of the seniors. The property held by any class, or by its members as such, must have been held for the benefit of the survivors or survivor of that class; but, upon the extinction of a class, the property of the class or of its members as such passed to the surviving classes or class according to special and very technical rules.

"On the failure of the 'geilfine'-class, three-fourths of its property passed to the 'deirbhfine,' three-sixteenths to the 'iarfine,' and one-sixteenth to the 'indfine'-class.

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* p. 330. † p. cxxxix.

"On the failure of the 'deirbhfine'-class, three-fourths of its property passed to the 'geilfine,' three-sixteenths to the 'iarfine,' and one-sixteenth to the 'indfine.'

"On failure of the 'iarfine'-class three-fourths of its property passed to the 'deirbhfine,' three-sixteenths to the 'geilfine,' and one-sixteenth to the 'indfine.'

"On failure of the 'indfine,' three-fourths of its property passed to the 'iarfine,' three-sixteenths to the 'deirbhfine,' and one-sixteenth to the 'geilfine.'

"On failure of the 'geilfine' and 'deirbhfine'-classes, three-fourths of their property passed to the 'iarfine,' and one-fourth to the 'indfine.'

"On failure of the 'indfine' and 'iarfine,' three-fourths of their property passed to the 'deirbhfine,' and one-fourth to the 'geilfine.'

"On failure of the 'deirbhfine' and 'iarfine'-classes, three-fourths of their property passed to the 'geilfine,' and one-fourth to the 'indfine.'

"On failure of the 'geilfine' and 'indfine,' three-fourths of the property of the 'geilfine' passed to the 'deirbhfine' and one-fourth to the 'iarfine'; and of the property of the 'indfine,' one-fourth passed to the 'iarfine,' and one-fourth to the 'deirbhfine.'

"Two possible combinations of two extinct classes, viz.:—the 'geilfine' and 'iarfine,' and the 'deirbhfine' and 'indfine,' are omitted from the commentary. It would appear that upon the failure of any two classes the whole organization required to be completed by the introduction of a sufficient number into the 'geilfine'-class and by promotion carried on through all the classes upwards; and if there were not forthcoming sufficient persons to complete the organization there was no partition among the surviving two classes, but the property went as if the deceased were not members of an organization at all. The rules as to the distribution of property upon the extinction of any one class or of any two classes may be understood from the annexed diagram.

		1	2	3	4	5	6	7	8		(9)		(10)	
Indfine, .	16	1	1	1	0	8	0	8	0		0		4	4
Iarfine, . .	16	3	3	0	12	24	0	0	4	12	12	4	12	12
Deirbhfine, .	16	12	0	12	3	0	24	0	12	4	0		0	
Geilfine, .	16	0	12	3	1	0	8	24	0		4	12	0	

The rule upon which the distribution of the property of such an organization depends appears clearly from the above diagram.

Let it be assumed that each class possesses property represented by the figure 16. The class or classes extinct are denoted in the subsequent columns by a cypher, and the distribution of the property of the extinct class or classes is indicated by the numbers set opposite the names of the surviving classes. Three-fourths of the property of any extinct class pass to the next junior class, and in default of any junior surviving class, to the next senior class. The remaining one-fourth is treated in the same manner. If, exclusive of the class which has received its share, there remains but one class, the residue passes to that class, but if two classes survive, three-fourths of the residue pass to the next junior class, and, in default, of such class, to the next senior class; and the residue, one-fourth of a fourth, or one-sixteenth of the entire, goes to the remaining class. If two classes become extinct, the property of each is distributed according to this rule, in which case, if the two classes which become extinct are next to each other, the distribution of the property of both is identically the same; but if the extinct classes are not next to each other, the property of each is distributed to the remaining classes in varying proportions. It is evident from the commentary that the original principle, however it arose, had been forgotten, so that the distribution contained in column 8 of the above diagram is very awkwardly expressed, and the cases in columns 9 and 10 are altogether omitted. The meaning of this very artificial arrangement appears from the following passage :—'If the father is alive and has two sons, and each of those sons has a family of the full number—*i.e.*, four—it is the opinion *of lawyers* that the father would claim a man's share in every family of them, and that in this case they form two 'geilfine'-divisions. And if the property has come from another place, from a family outside, though there should be within in the family a son or a brother of the person whose property came into it, he shall not obtain it any more than any *other* man of the family.' From this it appears that the whole organization existed within the family, and consisted of the actual descendants of a male member of the family, who himself continued in the power of the head of the family. As soon as a son of the house had himself four children, he and his four children formed a 'geilfine'-class, and each succeeding descendant up to the number of seventeen was introduced into the artificial body. The entire property exclusively belonging to this family within a family was confined to the members of the organization until the number exceeded seventeen, when the senior member lost his rights to the separate estate, retaining those which he possessed in the original family.

"This arrangement must be regarded as an invasion of the archaic form of the family, and an introduction *pro tanto* of the idea of separate property. How or when the system arose we have no information, but arrangements equally complicated have been elaborated in the evolution of customary law.

"If it be admitted that the parent and his first four children (or sons) form the original 'geilfine'-class, it may be conjectured that the term 'geilfine'-chief, so often occurring in the Brehon law, indicates a son of the head of the family, who has himself begotten four children (or sons), and thus founded as it were a family within a family; and further, that, as upon the death of the head of a family each of his sons would become the head of a new family, the 'geilfine'-relationship in such an event would disappear, and its members would resolve themselves into a family organized in the normal manner. It may be conjectured that the parent always continued in the 'geilfine'-class, and that therefore it contained five members, although the other classes comprised four only, and that hence was derived the peculiar title of 'geilfine'-chief."

In this passage the system was accepted as a very singular institution, regulating the distribution of the property of a family; no attempt was made to account for the existence of rules so unusual, although it is obvious, that the mere existence of rules so complicated and in themselves so unreasonable must be referable to some anterior social system, as is the case with the rules of the English law dealing with the succession of real estate. Three distinct theories as to the origin and working of this system have been published since the date of the last volume of the Brehon Law Tracts, by Sir H. S. Maine in his Lectures on the Early History of Institutions; by Dr. W. K. Sullivan in his introduction to the Lectures of the late Eugene O'Curry; and by Mr. J. F. M'Lennan in an appendix annexed to the last edition of his work upon Primitive Marriage, and entitled the "Divisions of the Ancient Irish Family."

So numerous and important are the references to the Geilfine system in the tracts comprised in the present volume, so radically does this system underlie the organization of the family, and the succession to land, to illustrate which, the majority of the tracts now published have been specially selected, that it may not be considered an abuse of the restricted duties of an editor to explain the views upon this subject put forward upon such distinguished authority, and to state the objections to the reception of any of them in its integrity, before an attempt is made to propound a theory of the origin and working of the system, wholly deduced from the Brehon Law Tracts themselves, and which, although not in itself to be assumed as correct, as no modern explanation of so archæic an institution could claim to be, is at least consistent with the authorities and in itself; and affords a key to the rules as to the succession to land, scattered throughout the present volume.

The views of Sir H. S. Maine upon this subject are clearly put forward by him in the following passages selected from his work:

"Any member of the joint-family, or sept, might be selected as the starting point, and might become a root from which sprang as many of these groups of seventeen men as he had sons. As soon as any one of the sons had four children, a full Geilfine sub-group of five persons was formed; but any fresh birth of a male child to this son or to any of his male descendants, had the effect of sending up the eldest member of the Geilfine sub-group, provided always he were not the person from whom it had sprung, into the Derbhfine. A succession of such births completed in time the Derbhfine division, and went in to form the Iarfine, and the Indfine, the After and the End-families. The essential principle of the system seems to me a distribution into fours. The fifth person in the Geilfine division, I take to be the parent from whom the sixteen descendants spring, and it will be seen, from the proviso which I inserted above, that I do not consider his place in the organization to have been ever changed. He appears to be referred to in the tracts as the Geilfine chief.*

"The Irish family is assumed to consist of three groups of four persons, and one group of five persons. I have already stated that I consider the fifth person in the group of five, to be the parent from whom all the other members of the four divisions spring, or with whom they are connected by adoptive descent. Thus the whole of the natural or adoptive descendants are distributed into four groups of four persons each, their rank in the Family being in the inverse order of their seniority. The Geilfine group is several time stated in the Brehon Law to be at once the highest and the youngest.

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* Early History of Institutions, p. 210.

"Now Mr. W. Stokes has conveyed to me his opinion that 'Geilfine' means 'hand-family.' As I have reason to believe that a different version of the term has been adopted by eminent authority I will give the reasons for Mr. Stokes' view. 'Gil' means 'hand'—this was also the rendering of O'Curry—and it is in fact the Greek χέιρ. In several Aryan languages the term signifying 'hand' is an expressive equivalent for power, and specially for Family or Patriarchal Power. Thus in Greek we have ὑποχέιριος and χέρης, for the person under the hand. In Latin we have *herus* 'master,' from an old word cognate to χείρ; we have also one of the earliest cardinal terms of ancient Roman Family Law, *manus*, or hand, in the sense of Patriarchal authority. In Roman legal phraseology the wife who has become in law her husband's daughter by marriage is *in manu*. The son discharged from Parental Power is *emancipated*. The free person who has undergone manumission is *in mancipio*. In the Celtic languages we have, with other words, 'Gilla,' a servant, a word familiar to sportsmen and travellers in the Highlands, and to readers of Scott in its Anglicised shape 'Gillie.'

"My suggestion, then, is that the key to the Irish distribution of the Family, as to so many other things in ancient law must be sought in the Patria Potestas.* It seems to me to be founded on the order of emanciption from Parental

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* The use by Sir H. S. Maine of the term "*patria potestas*" is very infelicitous as basing his theory upon a doctrine of the Roman Law, which their own lawyers admitted to be peculiar and exceptional. The more general term "headship of the joint house" may, however, be substituted for it without injury to the argument.

Authority. The Geilfine, the Hand-family, consists of the parent and the four natural or adoptive sons immediately under his power. The other groups consist of emancipated descendants, diminishing in dignity, in proportion to their distance from the group, which according to archæic notions, constitutes the true or representative family.

"The remains, which we possess, of the oldest Roman Law point to a range of ideas very similiar to that which appears to have produced the Irish Institution. The family under the Patria Potestas was, with the Paterfamilias, the true Roman Family. The children who were emancipated from Paternal Power may have gained a practical advantage, but they undoubtedly lost in theoretical dignity. They underwent that loss of status which in ancient legal phraseology was called a capitis diminuto. We know too that according to primative Roman law they lost all rights of inheritance, and these were only gradually restored to them by a relatively modern institution, the equity of the Roman Prætor. Nevertheless there are hints on all sides, that, as a general rule, sons as they advanced in years were enfranchised from Paternal Power, and no doubt this practice supplies a partial explanation of the durability of the Patria Potestas as a Roman Institution. The statements therefore which we find concerning the Celtic Family would not be very untrue of the Roman. The youngest children were first in dignity."*

The entire geilfine system rests according to this view upon the *patria potestas* of the original progenitor without any reference to common property; the members are those up to the number of sixteen, who are the subject of the *patria potestas*, whether sons or remoter descendants, either by actual descent or adoption, and irrespective of age or the possession of property. It may be inferred that in Sir H. S. Maine's opinion the existence of the common ancestor is essential for the maintenance of the system, and that he regards all the members as living at the same time.

The theory of Dr. W. K. Sullivan is very different, and is contained in the following passage of his work;

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* Id., p. 216.

"The whole *Fine Duthaig* included several stages of consanguinity;—(1) the *Cindfine* or children the sons having the foreright;—(2) the *Bruindfine*, from *bruind*, the womb, the sons and daughters of heiresses or daughters of the *Gradh Fine*, or nobility inheriting property in their own right; (3) the *Gelfine*, which seems to have been sometimes used for all relatives to the fifth degree, and sometimes for the relatives to the fifth degree exclusive of the direct heirs. These constituted the family in the strict sense of the word. From the *gelfine* branched off, (4) the Derbfine, which included relatives from the fifth to the ninth degree; (5) the *Iarfine*, or relatives from the ninth to the thirteenth degree; and (6) the *Indfine*, or relatives from the thirteenth to the seventeenth degree. Beyond the latter degree, the *Fine* merged into a *Duthaig Daine*, that is, the nation at large, who were not entitled to a share of the *Dibad*, or property of deceased persons, or liable for the payment of fines or americaments on account of crimes, etc., except those of their own special *Fine*, within the recognised degrees of consanguinity. The *Gelfine* were the representatives of the rights and liabilities of the family or house; they formed a kind of family council styled *Cuicer na Fine*, or the five *Gials*, or pledges of the family. As they represented the roots of the spreading branches of the family, they were also called the *cuic mera na Fine*, or the five fingers of the *Fine*. When property, in default of direct heirs, passed to collateral heirs, the *Gelfine* received the inheritance in the first instance, and assumed all the responsibilities attached to it. In default of relatives of the fifth degree, the property passed to the representatives of the other *Fines*."*

This opinion of Dr. W. K. Sullivan has been adopted by Mr. W. E. Hearn, who after citing the Welsh rule of inheritance, viz., "The ancestors of a person are his father, and his grandfather, and his great grandfather; the co-inheritors are his brothers, and cousins, and second cousins,"† proceeds thus: "We may observe, I think, a similar case in the difficult case of the Irish *Fine*. The ingenuity of the Brehon professors multiplied distinctions which are not found in the laws of other countries, and it is not easy distinctly to understand their writings on this subject. I venture however to suggest that '*Fine*,' like Familia, was used in various senses, and included both the more limited and wider bodies; that of the six kinds of *Fine* enumerated in the Brehon Laws, the first three include the *Sui heredes* and *Agnati*, and that the remaining three are subdivisions, how far practically important we cannot tell, of the Gentiles. The Geil-fine included the fifth descent, which, if the *Ego* were not counted, brings us to the sixth descent as in other cases. The other three *Fines* taken together, extend to the seventeenth degree, at which point all traces of kinship are assumed to be lost."*

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* Manners and Customs of the Ancient Irish, Vol. I., p. clxiii.

† Ancient Laws of Wales, Vol. II., p. 427.

If this view be correct the Geilfine system is simply a mode of calculating kinship ; the Geilfine has no existence as a social entity; the particular *Fine* in which any individual should be classed depends altogether upon the person, who is assumed as the *stirps*; it would also seem that the five members of the *Geilfine* class, and the four members of the other three classes are not considered by these authors as "individuals" but as successive generations, and that the original ancestor is altogether excluded; and it also must manifestly follow that the members of the four classes could not possibly co-exist.†

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* The Aryan Household, p. 173.

† Authors, who speak of property as being divisible among relations in the seventeenth degree, cannot have considered the difficulty, or impossibility of ascertaining kinships so remote, or the consequences which would probably result could all the relatives of this remote degree be once ascertained. It would be necessary, for such purpose, to trace up seventeen male descents for the purpose of discovering the stirps, and in the second place to complete the requisite genealogical table of all the male descendants of the stirps throughout seventeen generations downwards. The stirps, upon the ordinary average of human life, must have been dead upwards of 500 years, and there is no existing noble or royal family in which this inquiry could be attempted with any prospect of success.

Thus the relatives in the seventeenth degree of the Count de Chambord include all the descendants of Louis, the first Duke of Bourbon, son of Robert of Claremont, and grandson of Saint Louis, who died in A.D. 1341. Those of the present

The theory of Mr. M'Lennan upon this subject is different in every respect from those of Sir H. S. Maine and Dr. W. K. Sullivan. The two cardinal assumptions upon which he proceeds are, (1) that the terms geilfine, derbhfine, iarfine and indfine are correlative, and that, therefore, the four classes of the system must exist from the inception; (2) that the arrangement was founded upon the possession, and intimately connected with the distribution of property; (3) and that the members of the groups included only certain of the members of the family.

The geilfine system according to this view originated in the existence of *four* persons, related in the same degree to the original *stirps;* each of whom was the primary member of one of the four classes, and as a necessary result the Father or *stirps* was excluded from the organization, and the subsequent members of each class were the lineal descendants of the original member of that class.

"If we conceive one of the organizations, initiated as in the case pronounced upon by the lawyers, to be completed (1) through the death of the Father, and his two sons leaving a set of four grandsons in their places, each as the eldest member of his division; and (2) through the filling up of the divisions by the birth of descendants to the several grandsons, the following table will then represent the organization :—

Indfine.	Iarfine.	Deirbhfine	Geilfine.	
A^1	A^2	A^3	A^4	Fathers and Brothers.
B^1	B^2	B^3	B^4	Sons and First Cousins.
C^1	C^2	C^3	C^4	Grandsons and Second Cousins.
D^1	D^2	D^3	D^4	Great Grandsons and Third Cousins.
—	—	—	E^4	Great great Grandsons.

German Emperor include all the descendants of Frederick IV., Burggraf of Nurnberg, who died in 1332. As to their probable number when discovered, it is a matter of geometrical progression. If we consult the pedigree of David it will appear that, as seventeenth in descent from Reu, he counted among his relatives within the seventeenth degree the entire nations of the Jews, Edomites, Ishmaelites, Moabites, Ammonites, Midianites, and several others.

"The seniors of the division are A^1, A^2, &c., the brothers who constituted the 'family of the full number, *i.e.*, four'; and the other men in the divisions along with them respectively, are their first-born sons, grandsons, &c. A^1 is the eldest of the four brothers, A^2 the next eldest, and A^4 is the youngest. The following features of the system now become intelligible:—

"1. It is at once obvious why it is said the geilfine division is the youngest, and the indfine division is the oldest.

"2. We can see a reason why, as a rule, there should be four men only in a division, and why there should be a fifth man in the geilfine division. The age of marriage among the ancient Irish was seventeen years—the age for finishing fosterage. Thus A^1 would be at least fifty-four years old before his great grandson D^1 would be born; he would be between eighty and ninety years old before E^4 could have a son; which would be the signal to A^1 to 'go out of the community.' As a rule then, there could be only four generations of *men* in existence at a time, and represented in the divisions. The fifth man, or rather boy, in the geilfine division must have been added to postpone the going out 'into the community' of the senior of the indfine. When he went out, he became, as we shall see, a pensioner on his division, and were he to go out when E^4 was born, he might be a charge on that division for a term of years. Before E^4 could have a son, however, A^1 would be a very old man. Indeed, the 'going out' must have been rare. The law, however, provided for it, as it did for the divisions not being full, and even for their becoming extinct. Whatever the purposes of the organization were, the existence of the whole number of the seventeen men was not essential to them, and in the eye of the law a division existed so long as there was one man in it (Senchus Mor, Vol. III., p. 333).

"3. So far as the organization was an artificial institution, it may have been a sufficient reason for limiting the number of divisions to four, that there were four men only in a division. More probably the reason was that four was, on the average, the full number of sons in a family.

"4. We have a clue to the 'self-acting principle,' as Sir

Henry S. Maine aptly calls it, according to which the oldest member of each division passed into the next, on a new man 'coming up' into the geilfine division. Among the Irish the next brother, or other nearest male agnate next in seniority to a deceased chief, succeeded to the chieftaincy in preference to a son. We can, therefore, understand how they should provide for the succession of brother to brother, in order of seniority, in the headships of divisions; and failing brothers for the succession of cousin to cousin (of the same class) in order of seniority. It accords with this succession law that when A^1 'went out,' A^2 should succeed to him as head of the indfine division, that A^3 should succeed A^2 as head of the iarfine, and A^4 succeed A^3 as head of the derbhfine. But we saw that before A^1 went out he would be very old. Before another 'going out' could occur through the birth of a grandson to E^4 the brothers would certainly be all dead, and the first cousins, B^1, &c., would be the heads of divisions. It would be next B^1's turn to go out, and he would be succeeded in the headship of the indfine division by B^2 as the cousin next in seniority; and B^2 being succeeded by B^3, and B^3 by B^4 all the seniors would be promoted as before. By the fourth occurrence of such an occasion it would be D^1's turn to go out; if, indeed, before then the organization had not collapsed through the extinction of divisions and want of men to reform them."*

In a subsequent passage Mr. M'Lennan explains the mode in which this system would work as a quasi-entail of the family lands. "The most simple way of regarding the rules established for the fourfold organization, in order to see how they operated as a succession law, is to conceive it to be started by four brothers, A^1, A^2, &c., on the death of their father, leaving to them ancestral lands, which had come to him as next-of-kin, and which, at common law, they were entitled to divide equally between them. Thus regarded, the arrangement operated, in the first instance, as a settlement of the respective shares of the brothers on their heirs of line, the survivors, or survivor of them, as far as great grandsons. When a son B appeared, A shared the division lands with him; when a grandson appeared, they were shared again between the father, son, and grandson; and they were finally redistributed on the appearance of a great grandson. After this there were redivisions as the men in turn died, till, they all being dead, the land was shared in the proportions specified between the remaining divisions. The chief peculiarities of the system, it will be seen, are (1) that it stopped succession in the direct line, except in the geilfine division at great grandsons; (2) that the principle of primogeniture appears in the formation of the groups of co-inheritors and parceners; and (3) that a life-tenancy only was given to any heir. To comprehend the working of the system, we must think of the four brothers as having one or more brothers who shared with them the lands on the death of their father, but remained outside the organization. These, I conceive, were the men of the family with their descendants, or whose descendants, if they were dead, might, on the extinction of one or more divisions, enter the organization by forming new divisions. If the indfine, for example, became extinct, the iarfine would become the indfine in the reformed organization, the deirbfine, the iarfine, the geilfine, dropping the odd man, would become the deirbfine, and the next eldest brother to A⁴, with his descendants, would become the new geilfine division. The new divisions would enter with a share of the ancestral lands equal to that possessed by the others, except so far as the others had their shares increased by the distribution between them of the lands of the indfine. And thus the organization would continue, confining the lands to great grandsons, till it collapsed through the extinction of two of the [illegible] and the failure of men of the family to reform it. [illegible] no longer, the lands of the extinct [illegible] then go to the next of kin, and be subject to [illegible] of succession, whatever that was, till the [illegible] settled by the formation of a divisional [illegible].

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* Primitive Marriage, 2nd edition, page 472.

[illegible] that Mr M'Lennan clearly distin-

[illegible] 100. It is to be observed that the [illegible] of English law.

guishes between the actual existing form of any legal organization, and the legal theory by which such form is determined. He does not assert that the Irish '*fine*,' as a rule, was organized as a complete geilfine system, but proposes his theory as the abstract system of the Brehon lawyers, upon which, under certain circumstances, the '*fine*' would be organized so far as it went, and which it should assume if fully developed. The English lawyer knows that the abstract and complete form of the English manor is as purely ideal as any Platonic archetype, but that the existing manors do, as far as circumstances admit, present more or less resemblance, and approach more or less nearly, to the theoretical manor described in our Real Property text books. Mr. M‘Lennan's scheme however involves difficulties which he has wholly failed to explain. Why should the ordinary rules for the succession to land be suddenly arrested upon the birth of a fourth son, and the shares of the several sons thereupon pass in strict entail for three generations according to the law of primogeniture? Why should the succession in the case of the geilfine division be extended to one generation further than in the case of the other classes? and why should the head of the indfine division remain in the system, although he had himself a descendant in the fourth degree, but "go out" upon the birth of a descendant of his youngest brother in the same degree? Mr. M‘Lennan assumes the four members of each class to have held the original share of the first member of that division, as joint tenants; and if so the following questions must at once arise. If A^1 goes out and A^2 must thereupon cease to be head of the iarfine division and succeed A^1 as head of the indfine, and A^3 pass similarly from the deibhfine to the iarfine, and A^4 from the geilfine to derbhfine, does A^2 cease to be a joint tenant of his own original share with B^2, C^2, and D^2, and become a joint tenant of the original share of A^1 jointly with B^1, C^1, and D^1, and is this process repeated in the other classes, so as to leave the four junior members of the geilfine class sole tenants of the original share of A^4? and further if, upon the entire extinction of the indfine class, the geilfine class become in the "formation of new divisions" the derbhfine class, how is the fifth man of the geilfine class got rid of? Mr. M'Lennan simply says that in this case the geilfine division drops the fifth man, but we must confess that such exclusion appears to us as inexplicable as his original inclusion.

In dealing with a question such as the present, there is nothing more misleading than analogies and assumed resemblances. Each of the three above-mentioned authors, who have treated of this subject, has supported his theory by reference to rules existing in other archæic systems of law, which are more or less confidently stated as arguments for the acceptance of the proposed theory as correct. But a profitable comparison can only be instituted between two known objects. An attempt to define the qualities of any thing unknown by reference to the qualities of a known quantity rests upon antecedent proof (more frequently the suppressed assumption) of their identity. This argument from tacitly assumed resemblances has been often in the present day too far pressed, frequently with very unfortunate results; in dealing with an inquiry like the present, it would seem to us that the first step is to discover, as far as possible, what the actual texts with which we are dealing say upon the subject, and to draw our conclusions from them free, as far as may be, from those *a priori* ideas of law, which, as incident to the form of society in which we live, naturally influence our judgment; and that when we have arrived at some definite conclusions in this manner, then, but not until then, the analogies and resemblances of other system are useful for the purpose of testing the probability of the correctness of the results to which we have attained, and as explaining or illustrating many points of detail which at first failed to attract the attention which they deserved.

When an attempt is made to deduce, from the existing remnants of the works of the Brehon lawyers, a consistent theory of the organization of the ancient tribe and family, there arises the obvious difficulty, that the documents, with which we have to deal, are not the contemporaneous exposition of an existing system, and that we have no means of arranging them according to the date of their production; even the original text and commentary of many of them are separated by long intervals of time, and exhibit ideas altogether discordant. The earliest date of the original text, or rather of the customary rules laid down in the original text, is not, and probably cannot be, ascertained; the latest commentaries and glosses are probably not earlier than the 16th century; they certainly cover a period extending from the Danish invasion to the reign of Elizabeth, during which the country was exposed to continued war and confusion, and subjected to all the political and social causes which would naturally lead to the breaking up of the ancient tribe and family system, and the substitution of the arbitrary power of chiefs commanding bands of armed retainers for the regular action of ancient and established custom. The analogy of other nations in a similar condition would naturally lead us to anticipate that during this period the chiefs were constantly gaining ground as against the rights of the individual members of the tribe, and such would appear to have been the case from the days of Conn Cetcorach to that of the chiefs, who, in the 16th century, obtained from the English Government grants of the tribe lands in fee or fee-tail with the object of defeating the custom of Tanistry, or of destroying the rights of the customary holders. The original constitution of the tribe or family during such a period gradually ceases to be an existing *social fact,* and tends to become merely a rule for the distribution of property upon death, after a fashion which would be strange and inexplicable, if we did not understand it to represent a social system which had for all practical purposes disappeared. The distribution of property according to the Geilfine system, as expounded in the commentary to the Book of Aicill, bears the same relation to the original constitution of the '*fine,*' as the rules of the English law, relative to the succession of real estate, bear to the feudal system, or as the distribution of property according to the later Civil Law does to the early Roman family. Those of the Brehon Law tracts, which deal with the geilfine system as an arrangement of the tribe or family, would seem therefore the more ancient and authoritative with regard to the nature of that organization; and it is worthy of remark that the differences, which exist between what may be *a priori* assumed to be the earlier and later tracts, are just what might be anticipated to have arisen under these circumstances.

The most important document upon the subject of the tribe and family organization is the tract entitled "Of the Divisions of the Tribe of a Territory" published in this volume, and we desire particular attention both to the text of this tract, and the obvious deductions to be drawn therefrom.

The word translated tribe in the title of this tract is "cinel," which is generally understood to mean a tribe in the full extension of the term, and containing a greater or less number of "families."

The word translated "territory" means not a mere extent of land, but primarily the tribe or people themselves, and thence a tract inhabited by a definite body, and regarded with reference to the rights of the occupants.

The word "*fine*," translated variously "tribe" or "family," (a circumstance which has been noticed as an error by some critics of the present translation of the Brehon Laws,) appears on the face of this document as not having any very precise or technical meaning, implying any number of persons conceived as forming a class whether from identity of descent, or similarity of rights.

This document must not be considered as a description of the ordinarily existing tribe, but rather as an explanation of the form which a tribe would assume if fully developed in every direction. It is remarkable that this tract would appear to consider the tribe and family as commensurate, if not identical. It would be, however, an error to consider that we must, from the tract in question, infer such to be the case, a result contradictory of many other passages in the Brehon Law tracts and opposed to all analogy.* The number of families in the Celtic tribe was never theoretically fixed, as were the number of the Roman gentes or Greek φράτιαι; and our author naturally deals with the simplest case of the tribe consisting of one family, or, which is perhaps more probable, when he deals with the family, he directs his attention to some one supposed instance.

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* The following passage is conclusive upon this point: "An '*aire-fine*' be it known; a man who leads his family ('*fine*') when they are on their way to the chief ('*flaith*')."—Post, p. 349.

The mode in which the tribe or family was organized according to this tract, was as follows:—

(A.) The "*fine*" of the chief (flaithe-fine), consisting of—(1) the chief's *fuidhir* tenants; (2) the kinsmen of the chief; (3) the dependents of the chief.

(B.) The divisions of the "*fine*" of the territory—(1) the geilfine; (2) the deirbhfine; (3) the iarfine; (4) the innfine; (5) the deirghfine; (6) the duibhfine; (7) the finetacuir; (8) the glasfine; and (9) the ingen ar meraibh. The nature of the five latter divisions, as to which there is no doubt, is of much importance in determining that of the four first in the second part of this catalogue. The "deirgfine" are described as those who have shed blood; from whom no *debadh* property comes; who receive no share of the tribe ("*fine*"), but who nevertheless pay for the crimes of their kinsfolk. Dr. W. K. Sullivan describes this class as consisting of those "who killed, or attempted to kill the senior members of their fine in order to get at their *dibad*, or property;"* in this he follows Dr. O'Donovan, who states, in the note annexed to the text, that they were those who were guilty of the murder of a brother familyman, *i.e.*, one of the seventeen men of the four principal divisions. A permanent division of murderers is indeed an anomaly in a tribe organization, and there is a much simpler and more obvious explanation; in the present volume there is contained a tract entitled "The Land is forfeited for Crime," in which it is laid down that the land of one who had committed a crime was "given for his crime;" that his land was the primary fund for the payment of the "dire"-fine and compensation in exoneration of those who by reason of their kinship, or family relation, to the criminal, were bound to make good his default. The deirgfine-man was one who by reason of a crime had forfeited his share in the property of the "*fine*," but in other respects continued to be recognised as a member.

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* Manners and Customs, &c., Vol. I., p. clxvi.

The "dubhfine" were those whose claims to be members of the "*fine*" were under dispute, and who were required to substantiate their rights by ordeal, or by lot.

The "fine-tacuir" were not members by descent, but by a contract of adoption.

The "glasfine" were the children of a female member by a stranger, defined as the children of an Albanach, and described as kindred from beyond the sea.

The "ingen ar meraib" were those commonly believed to have claims to be members, but whose title rested merely on common repute, and was not the subject of ordeal or lot. This term "ingen ar meraibh," literally "the nail on the finger," may be similiar to the word "nagel kyn" as designating indefinite and indescribable relationship. It is to be observed that these five latter classes consist of men not full members of the "*fine*." The "deirghfine," although members by descent, had suffered a "*diminutio capitis*," and were not in the enjoyment of full rights. Of the remaining four classes two were confessedly not members at all, and the membership of the two remaining classes was either in supense or unprovable. The four classes of the geilfine, &c., must therefore represent the members of the "*fine*" of admitted descent, and full rights. These classes are in this tract described as follows:

"The geilfine extends to five persons; it is they that get the '*debadh*'-property of every kindred chief (*cond*) who leaves '*dibadh*'-property.

"The '*deirfine*' extend to nine persons; their 'dibadh'-property is not divided according to the number of kindred heads.

"The '*iarfine*' extend to thirteen men; they get only the *fourth part of the fines, or of* profits, of the ground, or of *labour*.

"The '*indfine*' extend to seventeen men; they divide *among themselves, as* is right, whatever part of the tribe-land is left as '*dibadh*'-land."

From this tract the following deductions may be safely made: (1) the organization of the "*fine*" was based upon the exclusive possession of land by the "*fine*" as a distinct community, and had direct reference to the mode in which the land was divided among them.

(2) The four classes of the geilfine, deirbhfine, iarfine, and 'innfine' consisted of seventeen members of the "*fine*" of pure descent, and full rights.

(3) Each of these four classes was complete in itself and possessed distinct joint rights both as against the other three classes as well as against the general members of the "*fine*."

(4) The four classes of full members do not comprise all the members of the fine. The "dubhfine" man, who had succeeded in establishing his position in the "*fine*" by ordeal or lot did not enter into the "geilfine" classification, but received a share of a fixed amount.

With reference to the "deirbhfine" division there is stated a rule that their property was not divided according to the number of kindred heads; it is possible that this may be introduced to point out that as between the "geilfine" and "deirbhfine" divisions, the two classes were to be considered as different and equal stocks, and the "geilfine" had no advantage in the division of property by reason of the greater number of its members; it would seem more probable that this is a general rule to the effect that property which passed to the "deirbhfine" class was to be divided "*per stirpes*" and not "*per capita.*" This fact is put beyond doubt by the passage in page 259 describing the mode of the division of the "*dire*"-fine payable to the family (and "*fine*") of a slain man: "Three *cumhals* of "*dire*"-fine go to the son and to the father; there are three *cumhals* of "*dire*"-fine remaining after that; a *cumhal* of "*dire*"-fine of them goes to a brother collaterally.—There is one '*cumhal*' of '*dire*' fine then after that—that is to be divided from the lowest man of the 'geilfine' division until it reaches the uppermost man; and from the uppermost man until it reaches the lowest, &c."

A man therefore could stand in some relation to a "geilfine" class, which did not include either his existing father, son, or brother, and from which we must assume that he himself also was excluded. The same conclusion must be drawn from the liability to pay fines. Upon this point Mr. M'Lennan remarks: "That the divisional organization was one of the divisions of the '*fine*,' or sept, appears from a curious passage in the Book of Aicill (Vol. III., p. 481) which discusses the question from whom a forced exaction, as in payment of a penalty or fine, might lawfully be levied. Here the 'seventeen men' are several times referred to as specially liable to such an exaction if levied on account of the crime of any man *connected* with them, in terms which seem to imply that every tribesman had, necessarily, a connexion with a divisional organization which was liable for his defaults. In one place the text, which, as it stands, reads as nonsense, must have been intended to indicate that the distant relatives of the criminal were liable for him only when the divisional organization was incomplete, or had collapsed—a reading which is confirmed by the text. The four nearest tribes bear the crime of each kinsman of their stock, geilfine, &c. (Senchus Mor, Vol. I., p. 261.) Here the connexion is disclosed between a tribesman, himself not the member of a divisional organization, and the organization responsible for him."*

The seventeen men must have exercised an authority and rule over the other freemen, of the "*fine*," or must have filled some quasi representative position in relation to their fellows. If the former were the fact it is improbable that so remarkable a difference of status would have been passed over by the author of this tract.

(5) The seventeen men are not represented as occupying among them the entire territory of the "fine," for there was a surplus of land available for members of the "*dubhfine*" or of the "*glasfine*."

(6) The existence of the organization of the "*fine*," does not seem to have been limited by reference to the life or lives of any person, or class of persons; the existence

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* Primitive Marriage, 2nd ed., p. 480.

of such classes as the "*dubhfine*" and the "*ingen ar meraibh*," the members of whom were contemplated as possibly increasing in number with the rest of the "*fine*,"* prove that "*fine*" so constituted had continued for very long periods.† But upon the completion of the four classes to their full number an important change took place as to the rights of the members of the "*fine*" in respect of their common property. The words in this tract "From this forth it is a case of a community of people, it is then family relations cease," are glossed as meaning that upon this contingency the subdivisions of land and liability separate, or that the relationship becomes extinct, or that the four families become extinct. The meaning of the glossist is quite clear, not that the previous members of the "*fine*" cease to exist as individuals, but that the organization of the "*fine*" as far as relates to the mode in which the common property is held ceases to exist and the community is dissolved into a number of persons holding the land they occupied independently of each other and without rights of inheritance to the lands of each other. That this is the correct interpretation appears from the passage in the first tract in this volume, "From seventeen men out they are not a tribe-community‡ and the commentary upon that passage. (7) The special *geilfine* class possessed a certain superiority over the other three, and by some such title had an exclusive right to extern property falling in, and as a natural consequence according to the first principles of Brehon law was also subject to a primary liability for the crimes of the members of the "*fine*."

These results may be supplemented by some other conclusions gathered from the tracts contained in the present and preceding volume.

There was at the head of the "*fine*" a chief who represented the "*fine*" in its collective capacity.

In the Book of Aicill, in discussing the right to property found upon roads, and the remedy for injuries done to roads, a distinction is drawn between the king of the territory, and the geilfine chief, in this passage distinctly described as the "geilfine flaith"; and the latter is treated as representing the rights of the "*fine*" as the former those of the entire community.[*] The "geilfine" chief of this passage would appear to be the same as the "fair chief of the tribe" whose assent was requisite to the validity of contracts dealing with "coibne-property";[†] and also with the "head of the tribe" who had certain rights in the nuptial presents of women of the tribe, and the gains of an harlot a member of the tribe.[‡] The "geilfine" chief was not always, it appears, necessarily a member of the "geilfine" class, for in the second of the passages referred to, there occurs a curious proviso restrictive of the power of the "fair-chief of the tribe," viz., "unless he be the sixth" which, although explained in the gloss in an obscure manner, appears to mean unless he be *not* one of the first five, *i.e.*, of the geilfine division properly so called.[§] There appear allusions to chiefs of the deirbhfine, iarfine, and indfine divisions, which implies that some one of the class possessed a seniority, or superiority, over the other members of the class.[‖] It would also appear that when a class was once formed, it continued to subsist as long as any one member of the class continued in existence; as we should now express it, the members of a class were as among themselves joint tenants and not tenants in common. The movement of individual members through the different classes was not caused by the vacancies in the three latter classes but by a superfluity of members in the first class; and that the social position and rights of the classes among themselves was in the inverse order of the seniority. That there were some connexion of kinship between the members of the four classes is everywhere assumed, but the relationship which may have existed at any time between the members may not have been that upon which the system was originally constituted. The existence of a father and four sons is more than once referred to as the basis of an ordinary "geilfine" system, but it does not follow that although the existence of a father and four sons would result in founding the system, it could not be formed by five persons of the same stock, standing in another relationship to each other; it might, it appears, be formed upon the basis of five co-existing brothers. That the deirbhfine were not descended from the geilfine is shown by the passage, which describes the property of the geilfine division upon the death of the five members of that division passing to a branch extern to the '*geilfine*,' viz., the *deirbhfine* division.* In the glosses upon this passage there is the following: "In this case after the death of the five persons which are the *geilfine* division, the land is divided among the three '*fine*' divisions, and in this case there is no female heir." As a female is here assumed to have been entitled to succeed upon the failure of male heirs, the extinction of one of the classes implies both the death of the original members, and the failure of their issue, and it is therefore necessary in any theory of the system to find room for the succession of lineal descendants to the land of their ancestors.

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* Page 295.

† Vol. IV., p. 243.

‡ Page 39.

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[*] Vol. III., p. 307. [†] Vol. IV., p 39. [‡] Id., p. 63.

[§] Another and slightly different explanation of this passage is suggested subsequently, see p. lxxxviii.

[‖] Vol. IV., p. 243.

Mr. M'Lennan after pointing out that such a system must be primarily founded upon the possession and distribution of land, and that the liability of the members for the acts of members of the "*fine*" is based upon the rights which they enjoy in respect of the common property, makes the following important observation: "It is not difficult to imagine that arrangements of such obvious convenience as defining and limiting the liabilities of kinsmen for one another, if once successfully established among the superior classes, would in time be imitated by the inferior; and the peculiar settlement of property, worked through a divisional organization, as may be easily seen, is nowise in its nature, inapplicable to movable estate."†

In conformity with this observation of Mr. M'Lennan, a remarkable analogy to the geilfine system in the "*fine*" appears to have existed among the families of the "fuidhir" tenants, which is worthy of much attention in the consideration of the present subject. These tenants, settled upon the chief's share of the tribe lands, were recruited from the broken men, who had lost land and kinship, and in the tribe organization were supposed to form portion of the "*fine*" of the chief *(flaithfine)*, but at an early period they seemed to have formed artificial families upon the system of reciprocal liability, and to have acquired a right of hereditary transmission of property. The passage to which we refer lays down as a general principle that "the natural bondman does not bear the crimes of his relatives," but that if there were five houses of "fuidhir" tenants, each householder having a stock of one hundred cattle, and all under one chief, they formed an association, recognised as a portion of the tribe, for each thereupon shared in the common tribe land (dibadh) and paid for the crimes of the other member of their separate organization. The phrase "They share the tribe property," translated as in the last sentence by an earlier glossist, is translated by a subsequent commentator, "Each of them shall share the tribe property of each other;" according to this view the reciprocal liability for crimes drew with it common rights and joint ownerships in the aggregate stock of the five houses.* But whatever rights the five head men of these "fuidhir" houses acquired in the common stock, it must have been subject to the succession of lineal heirs, as in a subsequent passage we read (in respect of the case of fuidhir tenants), "the father does not sell anything to the prejudice of his sons, grandsons, great grandsons, or great great grandsons."† To constitute such a community there must have been a certain number of persons belonging to different households, and also possessing an adequate amount of property. The sons, brothers, &c., of an household were liable for each others deeds without such organization, and the addition of impecunious persons into such an association would create a liability without any reciprocal guarantee.

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* Vol. IV., p. 39.

† Primitive Marriage, 2nd ed., p. 492.

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* Post. page 43. The precise meaning is not important, but we are inclined to prefer the latter translation.

† Post, p. 287.

There must have existed distinct and early laws of hereditary succession to lands of inheritance (*orba*) among the Irish Celtic tribes, but these rules have in fact been amalgamated in the "*geilfine*" system, and cannot be now understood apart from it; the Welsh rules which may be assumed to have some general resemblance to those of the Irish, throw, in our opinion, considerable light upon this subject. The relation of the father and son in the Welsh law in respect of the family inheritance resembled rather the civil law substitution, than the English joint-tenancy; "neither is the son to deprive his father, during his life, of land and soil; in like manner the father is not to deprive the son of land."* Such a rule, if strictly carried out, would have created a perpetual succession, and the right of the heir could be barred only in one way, viz., by an agreement between "father, brothers, cousins, second cousins, and the lord;" a proceeding the same as the present mode of barring a Scotch tailzie. Upon the death of the father, the daughters took nothing, unless there was a failure of male heirs; upon the death of the father the sons divided the lands between them in the following manner: "When brothers share the patrimony between them, the youngest is to have the principal tyddyn, and all the buildings of his father, and eight erws of land, his boiler, his fuel hatchet, and his coulter; because a father cannot give these three to any but to the youngest son; and though they should be pledged, they never become forfeited. Then let every brother take an homestead with eight erws of land; and the youngest son is to share, and they are to choose in succession from the eldest to the youngest."†

The inheritance having been thus divided among the first generation of descendants, was again divided among the grandsons, and again among the great grandsons, after which there was no further apportionment. By this we must understand that the three first generations of descendants took "per capita," and that the fourth generation retained the existing shares by household or per stirpes. The resharing was subject to the exception that no one should "remove from his tyddyn to another; because the tyddyns are of such a number that no one is obliged to be a builder for another".[*] The right to inherit the share of any deceased relative, was not as collateral heir of the deceased, but as a lineal descendant of the original ancester;[†] to use the terms of English law, heirship was claimed not to the last seized, but to the purchaser; but the right of inheritance stopped short at the fourth generation of descendants; the descendant in the fifth degree had no hereditary claim through his ancestor to any portion of the lands of inheritance, and therefore kinsmen more distantly related than third cousins could not be heirs to each other in respect of shares in lands of inheritance. In default of relations within this degree the land escheated to the king.[‡] It is to be remarked that according to this system the elder brothers go out of the father's house and establish themselves in separate buildings, upon distinct portions, cut out for them of the lands; and the youngest son is left in the possession of the original homestead and all its gear. The redivisions are not partitions of the land exhausting the entire, but on these occasions each male descendant acquires a fixed portion as his share; after the third generation there is no further redistribution of the land; and after the fourth generation the family organization is dissolved into separate households, each of which (for the purpose of inheritance) had no relationship with the others.[§]

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* Ancient Laws of Wales, Vol. I., p. 177.

† Ancient Laws of Wales, Vol. I., p. 543.

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[*] Ancient Laws of Wales, Vol. II., p. 291. [†] Id. [‡] Id., Vol. I., p. 545.

[§] That the hereditary right of succession to property and the claims of kinship should cease, or be very much diminished at some particular point in the chain of descent, is a conception not unknown to ancient law. "The typical example of this division of the clan, as of so many other of our early institutions, is found in India. In that country the degress of kindred, as I have already observed, were determined by the nature of the sacred rights in which the kinsmen shared. The nearer relatives offered to their deceased ancestors the *pinda* or sacrificial cake. The more distant relatives made an offering of water. The former were called Sapindas, or persons connected with the cake. The latter were called Samanodocas, or persons connected by equal oblations of water. The relation of the Sapindas ceases with the seventh person, that is, with the sixth degree of kindred." (The

In the following observations it is desirable to use the term "tribe" and "family" in a techincal sense, treating the former as indicating the larger organization known as the "*cinel*," the latter as equivalent to the "*fine*;" this distinction between the "tribe" and the "family" appears in all

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degrees of kindred in this passage are calculated according to the rules of the English, not of the Civil Law.) "The relation of the Samanodocas ceases only when their birth and family name are no longer known. The Sapindas have the primary right of inheritance to a deceased person; and failing the Sapindas the Samanodocas succeed. In other words all those persons are Sapindas, who have a common great-grandfather, or other nearer ascendant, that is second cousins and all nearer relatives. All those persons are Samanodocas, who have a common great-great-grandfather, or other more remote ascendant, that is third cousins and all more distant relatives. In the former case, the common ancestor who marks the limit, is the father's grandfather. In the latter case it is the grandfather's grandfather. Thus the Prince of Wales and the Ex-Crown Prince of Hanover are Sapindas, because they trace descent from the same great-grandfather, King George III., but their children fall into the wider circle of Samanodocas, or more remote kinsmen.—*The Aryan Household*, p. 168.

The actual text of the Welsh Law is as follows:—

1. When sons share their patrimony between them, the youngest is to have the principal tyddyn, and all the buildings of his father, and eight erws of land, his boiler, his fuel hatchet, and his coulter; because a father cannot give these three to anyone but to the younger son; and though they should be pledged, they never become forfeited. Then let every brother take a homestead with eight erws of land, and the youngest son is to share; and they are to choose in succession, from the eldest to the youngest.

2. Three times shall the same patrimony be shared between three grades of a kindred; first between brothers, the second time between cousins, the third time between second cousins; after that there is no propriate share of the land.

3. No person is to demand re-sharing, but one who has not obtained a share by choosing; thence the proverb, there is no choice in what is settled.

4. No person is to obtain the land of a co-heir, as of a brother, or of a cousin, or of a second cousin, by claiming it as heir of the one co-heir who shall have died without leaving an heir of his body; but by claiming it as heir to one of his own parents, who had been owner of that land until his death without heir, whether a father, grandfather, or great-grandfather, that land he is to have, if he be the nearest next-of-kin to the deceased.

5. After brothers shall have shared their patrimony between them, if one of them die without leaving an heir of his body, or co-heir, to a third cousin, the king is to be the heir to that land.

6. As a brother is rightful heir to his patrimony, so is his sister rightful heir to her gwaddol, through which she may obtain a husband entitled to land; that is to say, from her father, or from her co-inheritors, if she remain under the guidance of her parents and co-inheritors.

7. If an owner of land have no other heir than a daughter, the daughter is to

early systems, and correlative terms expressing them are found in many languages.*

The "family" came into being under certain circumstances, and again was dissolved upon the existence of a certain state of facts; the "tribe" existed before the "family" came into being and continued to exist after the latter had been dissolved; the "tribe" consisted of an aggregate of individuals connected by a real or assumed relationship, and occupying in separate households a district of which they in some manner were the common owners.

Let us consider the circumstances under which a "family" organized upon the *geilfine* system came into existence; the mere fact that a member of the tribe had a certain number of children would be insufficient, for it rested upon the basis of the possession of a distinct and separate property; nor again would the bare fact of the possession of land enable a member even of the "family" to found a new geilfine group, for there was only one such organization in each family.

The property upon which a family was formed was not a right to a share greater or less in the general tribe land to be allotted from time to time, or a right to depasture the waste of the tribe, but the exclusive possession of a definite portion of the tribe land, granted out the general mass, and appropriated as the exclusive and hereditary property of the descendants of some definite individual, an estate corresponding to the A.S. bocland, and described in the Brehon Law as "orba."

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be heiress to the whole land.—*The Dimetian Code*, ch. xxiii., A. L. & I., vol. i., p. 543.

"Distribution is in the first place to be between brothers. The youngest is to choose his tyddyn with such houses as may be upon the eight erws, if he be an uchelior, and from oldest to oldest let them choose their tyddyn, and to every one what houses may be upon his tyddyn. And after that let the youngest son share in every case; and from eldest to eldest let them choose. Afterwards cousins are entitled to a re-sharing, but no one shall remove from his tyddyn for another, because the tyddyns are of such number that no one is obliged to be a builder for another. And in that manner are second cousins to re-share. And, after the third sharing, let everyone re-claim his share in his possession lawfully through guardians of land-borderers.—*Cyoreithian Cymru*, xxxi., 1, A. L. &. I. of Wales, vol. ii., p. 291.

* The Aryan Household, 161–171.

If land has thus been dedicated to the use of a separate family, the claims of its members to enjoy their several proportions by hereditary right must be traced from the original acquirer, or in the old English law term "from the conqueror." This is very clearly shown by the Welsh rule that heirship is traced back in the first instance to the ancestor, and not to the deceased. As the family increased, the additional further accommodation is provided for, not by the enlargement of the original dwelling, but by the erection of new buildings with several allotments. The brothers under the Welsh law did not upon the father's death take equal undivided or divided shares, but to each was allotted his homestead with his eight erws of land in severalty. The existence of the thickly scattered "raths" in Ireland would of itself prove that the "family" occupied its district in this manner, and in the tract of the "Crith Gabhlach" (also published in this volume) the several members of the tribe are assumed to occupy separate houses, classified as to size, &c., in accordance with the rank of the occupiers; the Celtic family never seems to have clung together in the peculiar form of the Sclavonic household.

In considering how a *geilfine* system might have been formed, the question why the number of seventeen formed an element in the organization may be postponed for subsequent consideration. Nothing can be more embarrassing than an attempt to reconstruct a system founded both upon hereditary descent, and certain assumed arithmetical proportions. A family arranged upon some rules of inheritance can be easily understood, if once the principle of hereditary succession which underlies it, be ascertained; a political institution resting upon the selection of a fixed number from the indefinite mass of the population, can be supposed to have been an actually working institution. But when we read of assemblies formed of members selected in certain proportions, or in fixed numbers, out of different stocks, or of property divided among the descendants of some ancestor, in a fixed number of shares, it is clear that we are no longer

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[*] Ancient Laws of Wales, Vol. I., p. 177.

dealing with actual facts, but with theoretical descriptions of what the institution was supposed in the abstract to have been. The numbers in each family must be uncertain; some men have many, some few or no descendants. The actual condition of the population must soon have rendered its arithmetical classification impossible, if such classification ever existed in fact. No one pretends to believe in the actual existence of the early Roman constitution, with a permanently fixed number of tribes, curiæ, gentes, and familiæ; and yet upon the assumption of the existence of an almost impossible state of facts rest the number of the members of the senate, and the organization of the legion. Institutions, as all else, must accommodate themselves to existing facts, and in such cases as those to which we have referred the principle of hereditary right must shake off the incumbrance of arithmetical arrangement, or the numerical arrangement be carried out in disregard of the strict rules of descent.

The original acquirer of "orba" land establishes upon it his household, and as the number of his sons increases beyond the capacity of one common dwelling, they successively go out, take separate allotments, and establish themselves in distinct homesteads. This scattering of the original household must have arisen as a matter of necessity, as the consequence of an increase in number beyond the accommodation of the paternal dwelling. The eldest would probably first marry and leave the original home, and the order of their departure would probably follow that of their seniority. That the sons took their separate allotments during the life of the parent, and not upon his death, is the only mode of explaining the Welsh rule that the youngest and not the eldest son, succeeded to the father's house and gear; this must have rested upon the assumption that the youngest son alone remained in his father's house, which he jointly occupied with the father, upon whose death he remained in sole possession by survivorship, rather than succeeded by inheritance. Each son as he successively left his father's house received his share in the lands of inheritance, and, having become the head of a distinct household, would cease to be a joint owner with his father in the original property; the portion acquired by an elder son who had thus gone out would pass to his descendants, according to the ordinary rules of descent, but the undisposed of residue of the original lands would survive to the youngest son, who had not gone out, as representing his father in the manner before mentioned.

The "geilfine" system began to exist when there was a father and four sons; but the question arises as to the particular date at which this happened. That such date was that of the birth of the fourth son is in every way improbable; the members of the system are always spoken of as "the seventeen *men*," who have definite rights and considerable liabilities, which could neither be enjoyed nor performed by infant children residing in their father's house. The members of the geilfine stood in definite relation to each other; they had certain rights in each others property, but what was more important, they were jointly liable for the wrongs committed by any of the "family," and were guarantors among themselves for the payments to be made in respect of any such. That a man's four infant sons, who resided in his house, and possessed no independent property, were joined with him as security for his debts, would be of no advantage to extern creditors, and the father could not expect any benefit from having joined with himself as co-securities, his sons, who had no property except a contingent interest in what he himself possessed. The nature of the relation between the members of a "geilfine" system implies that they all are *sui juris*, and all owners of property efficient to answer their joint and reciprocal obligations. It is at this point that the great importance of the mode in which the "findhir" tenants are organised into a fictitious family is apparent. This was, as stated in the passage before referred to, effected by combining into one, five distinct households, not individuals, each possessing a fixed minimum of property. The unit here, as is generally the case in early tribal systems, is not the individual, but the household; when an individual is spoken of, he is referred to in his character of the head of an household; his property is originally the property of the household, of which he is the manager rather than the absolute owner. It is remarkable that the hereditary rights of succession of "findhir" tenants is apparently connected with the fact of their being organised; this would be a natural consequence of such an arrangement, for the property of any "findhir" house having been caught by the system of mutual guarantee, the household would be continued for the purpose of the fulfilment of the guarantee, in the persons of the sons of the original head as a member of the artificial family. For these reasons there are considerable grounds for assuming that the four sons, who jointly with their father formed a "geilfine," are four sons who have gone out and established themselves in independent homesteads upon their allotments.

Disregarding again for the present the question of numbers, the father and his sons, who have left the original home, and established themselves as the heads of independent houses, form the nucleus of the "geilfine" arrangement of the family; we have now an organization of households and a community, or land held by a community (coibne), instead of land held by an individual as head of an house; and in place of being "the paterfamilias" the father becomes the "geilfine" chief, or the head (*ceud*) of the community. The number of households in the community is fixed by the number of new homesteads established by the sons who have gone out, that is, a number equal to the sum total of the father and his forisfamiliated sons; and if the union be an union not of individuals, but of householders representing their separate homesteads, the system will not be broken up by the death of any leaving issue, but his successor in the headship of his house will take his place in the geilfine system.

The youngest son, succeeding his father as head of the original household, would at an early period probably succeed to the headship of the family also. The ancient religion of the Irish Celts has absolutely disappeared, but if their religious ideas resembled those of many others of the early Aryan tribes, among whom the headship of the family is intimately connected with the performance of the sacred rites at the original hearth, it would not appear unnatural that the headship should remain with the son, who, although the youngest, occupied the original home of the family.

The geilfine system having been once originated, it is to be considered whether the sons of the original acquirer represent the branch of system technically known as the "geilfine" branch, or represent the first members of the four distinct branches, as is the opinion of Mr. M'Lennan. To the latter opinion there appear to be insuperable objections. It excludes the ancestor from the system altogether; it confines the number of households in the family to four; it certainly fails satisfactorily to account for the extra member of the geilfine branch; it introduces the wholly foreign theory of primogeniture; and it involves the fatal difficulty that a large proportion of the members must be infants; as to the extraordinary longevity and power of reproduction he attributes to its members, we take no objection, as its author throughout treats the geilfine system, not as an existing social organization, but a speculative theory of descent.

That the geilfine class was formed before the deirbfine began to come into being, must be, in our opinion, the conclusion to be arrived at, upon an examination of the texts, and is the only theory upon which the peculiar intimate union between the members of each class among themselves, and the gradations of rank and probable difference of wealth among the classes can be accounted for.

The creation of the deirbfine class is similar to that of the geilfine, and would appear to have arisen in the same manner. If the sons, who leave the original home, take fixed allotments to which their descendants will be confined, and the original home and the balance of the lands of inheritance remain with the youngest son, and are available for the establishment of his descendants, it must follow that until the lands are completely occupied, the elder stocks must be constantly losing ground in point of wealth as compared with the younger. If a son of the youngest son can, on leaving the original home, receive an allotment similar to that which his father's elder brother received, his position is much better than that of his first cousins, and with each successive generation the disparity would become more marked. The answer to this objection is, that the existence of this very disparity, is one of the most peculiar, and, at first, unaccountable facts of the geilfine system, according to which the members of the geilfine class are, by the introduction of new members, promoted, or degraded (it is immaterial which term is used) into and through the three other classes, with a loss upon the occasion of each removal of position and property, but with a co-relative diminution of liability.

That the four branches of the geilfine system represent four distinct generations of the descendants of the original acquirer must be admitted; the terms descriptive of the four classes are repeatedly used as expressing the four successive generations descending from a supposed ancestor; but it appears equally certain that none of the classes were the descendants of any other of them. The glosses, indeed, treat the geilfine branch as being sons, the deirbfine branch as being grandsons, &c.; but if the views of the commentator in the Book of Aicill are not to be actually discarded, the "indfine" class contained the senior members of the system, and the geilfine the youngest; and hence the anomaly that the word which signifies the junior members of the class, are supposed to indicate the sons, and that which signifies the senior members of the class the great great-grandsons of the same person. So far, however, from treating the "*deirbfine*" as representing the "*geilfine*" class, the former is spoken of as a foreign branch taking only upon the failure of the issue of the geilfine.

The youngest son of the original acquirer, having succeeded his father, marries in his turn, and his sons, beginning with the eldest, go out successively and settle on their allotments. The second head with his four forisfamiliated sons forms a new geilfine branch, and that formed by the four sons of the original acquirer is pushed down into the *deirbfine* class; the original house, being that out of which the successive generations have swarmed, always continuing as an household of the geilfine, and thus the existing chief with his forisfamiliated sons always forming the geilfine division; the claim of the several branches of the system to their respective allotments, supposing the generations to have died off evenly, and the whole number seventeen to have been filled up, would be as follows: the geilfine would be the sons of an existing head or chief; the deirbfine, the first cousins of the geilfine, would claim as the grandsons of the previous chief; the iarfine, second cousins of the geilfine, would claim as great-grandsons of the second last chief; the indfine, the third cousins of the geilfine, would claim as the great great-grandchildren of the original acquirer. The senior branch upon this supposition is that most removed from the chief for the time being, and for the reasons before stated also the least wealthy. The four divisions, representing four successive generations, would, if the analogy of the Welsh Law is of weight, complete the system; if the right of hereditary succession was not transmissible beyond the fourth generation of the descendants of the original acquirer, the sons of the fifth chief or head would have no right to allotments, and no further independent households could be formed.

If the respective classes represent in the manner above mentioned four successive generations of the descendants of the original acquirer, each generation represents either brothers or the descendants of brothers; and each class, taken by itself, formed a distinct subdivision of the family, the members of which were the nearest relations of each other.

If each class represents a generation, it, at first sight, is difficult of explanation how four successive generations remain of the same number, neither less, nor more, but this objection is removed if we admit that each class is in fact the offspring of a single individual.

We are strongly inclined to believe that in its inception the respective classes were not tied down by any fixed rules as to numbers, although at the date of the commentary on the Book of Aicill the number of seventeen was considered as of the essence of the system. The geilfine organization is frequently spoken of as the "seventeen men," which would lead to the supposition that the number was always kept up by some contrivance to that amount; but from the rule that a class was not extinguished as long as there was one member of it in existence, it is clear that the system could, and must often, have been worked with very reduced numbers; a circumstance not incompatible with its successful operation, for the survivorship existing among the members of each class would concentrate the property of all in the hands of the last survivor, and leave the amount of property available for the fulfilment of their mutual guarantees unaltered.

The numerical form of early institutions arises from the desire of half-educated men for an unattainable arithmetical completeness in their arrangements, and from the wholly unwarranted assumption, with the view to enable them to construct theoretical systems, that all the families would be of some fixed amount, and that the members would be born or die off in the required order. The lawyers who reduced to writing the customs of the "*fine*," assumed that the number of children in each family would be five, that is, four who go out, and one who remains in the original home, and that, therefore, the system in its complete development must consist of seventeen persons, although probably as a fact it frequently fell short of that amount. The perfect form of seventeen persons, divisible in the four classes, each representing four brothers, with the addition of the head of the household occupying the original home, became the accepted theoretic form of the institution. If the number of seventeen members once became the supposed essence of the arrangement, that, which originally consisted of four classes, each of which was assumed to be four in number, and which, therefore, with the addition of original house, made up seventeen individuals, was considered as an organism of seventeen persons, sub-divided for occult reasons into four classes containing each a certain number.

In the "Bee Judgments" and "Rights of Water," allusions are made to the four geilfine classes, which manifestly prove that the four classes were regarded as distinct from, and contrasted with, each other. The geilfine system must have been familiar to the authors of these tracts, who illustrate local positions by reference to the relations between these classes. Nothing can more clearly show that each class was considered as a complete entity in itself.

Although the rule may have prevailed from an early date that the four geilfine classes should comprise no more than seventeen menbers, the number thus theoretically fixed could not often have come into conflict with facts; the chance of four successive householders in the lineal descent having each five sons, all of whom marry and have issue, is very remote, and may be practically dismissed from consideration.

We have already stated our explanation of there being four classes in geilfine system, and no more, viz., the rule that hereditary rights were not transmissible through more than four generations, and that therefore the organization could not be carried on beyond the great-great-grandsons of the original acquirer; other results worthy of consideration would arise upon this contingency, which are implied in the remarkable phrase; "From this forth it is a case of a community of people, it is then family relations cease." At first sight it would appear that the paragraph states that *the innfine class* divide among themselves the residue of the lands "of the family" as if it were "common tribe land," and that thereupon the organization of the "family," was dissolved. This would imply that the "innfine" class could at once on coming into being, dissolve the "family," a conclusion contrary to all the passages, which treat the "family" with its four classes as a continuing entity; it is quite impossible to imagine that the completion of the system involved its dissolution. It appears that no further generation of sons issuing from the original dwelling could obtain allotments, because the fourth occupier of the house was the last who had a right to settle his sons on the "family" land; his younger son, the fifth occupier of the original holding, could put out his sons as they married, but was obliged to divide the original holding, which up to this would have remained entire, among all his sons. The peculiar privileges attached to this holding would be lost, and all the "households" placed on an equality; the house which up to this had been the chief's house would become one of the houses of the ultimate "geilfine" divisions, thus permanently raising the number of members of the class to five; the undisposed of residue of the land, so much as had not been allotted to the sixteen members of the four divisions, would be divisible among the households probably per stirpes. The land of the "family," which up to this had been regarded as the undivided property of the community (coibne land), is broken up among the various members in independent properties. This explains the expression relative to covenants dealing with *coibne* property, "which the fair chief of the tribe ("family') confirms *unless he be the sixth*;" for the sixth chief of the "family," however elected, would be the first who did not represent the rights of the original acquirer. We have no information how the "geilfine" chief was subsequently appointed; the note prefixed to the commencement of the Tract "On Succession" proves that the succession to the headship of the "family" was an open question, and that the lawyers were inclined to support the doctrine of seniority as against some previously established rule.

It is necessary to consider the rules of succession laid down in the commentary in the Book of Aicill, with the object of ascertaining how far they agree with the theory of the origin of the *geilfine* system which has been here suggested. The well known passage in the Book of Aicill appears to treat of the question how the property of a household should be divided among its members, and would therefore deal with a much later stage of the Brehon Law, when the property of the originally united household was subject to distribution among its members. The principle that this property should be divided among seventeen persons at most, was then accepted, but the reason for such a number being fixed upon had at that time been forgotten, as there are no definite grounds shown for the distribution of the members into the four classes, and the essential and distinct unity of each class has been abandoned by the supposition that an individual of one class can be passed on into another class by the increasing number of junior members, and that, when the number of possible members exceeds seventeen, the senior member of the "innfine" class passes out of the organization.

It was, of course, impossible, when dealing with the mere distribution of property among the members of the household to suppose the system broken up when the number exceeded seventeen, and the extrusion of the senior member was a devise to avoid this difficulty. Sir H. S. Maine's explanation of this passage, supposing it simply to express a late mode of dividing household property upon the analogy of the prior distribution of family property, may be adopted with the exception of the continuance of the parent in the geilfine division.* The addition member of that division was, it seems, introduced from the older system, and retained after the reason for the fact had been forgotten.

Assuming the original geilfine system to have been such as has been suggested, the principle for the division of the property of the household laid down in the Book of Aicill is clear and consistent.

The actual relationship of the members of a fully developed geilfine system, if all the members died off at regular intervals, would be as follows. The members of all the four classes would then be the descendants in the fourth degree of the original acquirer; the "*geilfine*" division would be the first cousins of the *deirbfine* division; the second cousins of the *iarfine* division, and the third cousins of the *innfine* division; the *deirbfine* division would be the first cousins of the *geilfine* division; the second cousins of the *iarfine* division, and the third cousins of the *innfine* division; the *iarfine* division would be the second cousins of both the *geilfine* and *deirbfine* divisions, and the third cousins of the *innfine* division; and the *innfine* division would be the third cousins of the three other divisions. Their relationship might also be traced by representation, that is by the relationship which at the first existed between the original members of each division, in which view the *geilfine* division would be the nephews of the *deirbfine* division, the great nephews of the *iarfine* division, and the great great nephews of the *innfine* division; the *deirbfine* division would be the uncles of the *geilfine* division, the nephews of the *iarfine* division, and the great nephews of the *innfine* division; the *iarfine* division would be the uncles of the *deirbfine* division, the great uncles of the *geilfine* division, and the nephews of the *innfine* division; and the *innfine* division would be the uncles of the *iarfine* division, the great uncles of the *deirbfine* division, and the great great uncles of the *geilfine* division. As upon the failure of any class the property is to be divided among classes and not *per capita*, their shares are in the first instance determined by the assumed natural relationship of these divisions, and if this does not differentiate the classes, then by their representative relationship; the nearest class taking three fourths, the next three sixteenths, and the most remote taking one sixteenth. On the extinction of the geilfine, three fourths would pass to their first cousins the *deirbfine*, three sixteenths to their second cousins the *iarfine*, and one sixteenth to their third cousins the *innfine*. On the extinction of the *deirbfine* three fourths would pass to their first cousins the *geilfine*, three sixteenths to their second cousins the *iarfine*, and one sixteenth to their third cousins the *innfine*. On the extinction of the *iarfine* division, a difficulty would arise, as both the *deirbfine* and *geilfine* divisions would stand in the same relation, viz., that of second cousins, and their respective portions would have to be determined by their representative kinship; the *deirbfine* division as representing nephews would take the precedence of the *geilfine* division as representing great nephews, and three fourths would go to the *deirbfine* division, three sixteenths to the *geilfine* division, and one sixteenth to the *innfine* division. In the case of the extinction of the *innfine* division, all the other divisions stand to them in same degree of actual kinship, and the division of the property would follow representative kinship exclusively, three fourths passing to their nephews the *iarfine* division, three sixteenths to their great nephews the *deirbfine* division, and one sixteenth to their great great nephews the *geilfine* division. The distribution of the property of any two extinct classes follows precisely the same rules; if the property of each class be separately divided in the proportion of twelve to four between the surviving classes in accordance with their nearness of kinship. Thus upon the failure of both the *geilfine* and *deirbfine* division, the property of both is divisable between the remaining classes, their second and third cousins, three fourths to the *iarfine*, and one fourth to the *innfine* division; but upon the extinction of the *iarfine* and *innfine* divisions, the two surviving classes standing in the same degree of actual kinship to both, the principle of representation is introduced and three fourths pass to the *deirbfine* and one fourth to the *geilfine* division.

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* Although great weight is to be attributed to the opinion of Sir H. S. Maine, it may be fairly conjectured that at the date of the Commentary upon the Book of Aicill the rules for the distribution of property in the case dealt with were a mere survival of an organization which had practically ceased to exist, and that the seventeen consisted of the seventeen junior male descendants of the stirps, without reference to the original number of sons, and that these seventeen were arranged in classes after the analogy of the ancient divisions of the family. The anomalous results which would follow in some cases where the number of male descendants exceeded seventeen would not be more extraordinary than those which in exceptional cases occur under all systems for the distribution of property after death.

This mode of explaining the *geilfine* system gives the key to the rules laid down in the 39th page of this volume. The passage referred to is an attempt to lay down the rules for the succession to a female in the technical terms used in reference to the organization of the family. It appears from the gloss that the rules 3 and 4, in page xlii, deal with the succession to the property of a deceased female, and that the grand-children and great grand-children, there referred to, are not those of the deceased female, but of the original settler, if we may use this modern term. It appears that the hereditary right to the vacant lands did not extend beyond the fourth generation of the stirps, and that descendants of the several generations are conceived as co-existing. The existing descendants of the original stirps may be classed in two modes, either as constituting a geilfine system, or classified with reference to the relationship which the original members of any division of such a system would have borne to the original stirps. In a fully formed family the members of the *geilfine* class would be the original members of their division and descendants in the fourth generation of the stirps; the *deirbhfine* class would represent their fathers, the descendants in the third generation, and similarly the *iarfine* and *innfine* would represent ancestors who were the grandsons and sons of the original stirps; thus the terms *geilfine* and *deirbhfine* might in a secondary sense be used to designate descendants in the fourth and the third generation. The four generations of the male issue of the settler seem to have been regarded as forming four classes equivalent to the classes of the geilfine system, and having similar rights of property and succession *inter sese.*[*]

Upon the completion of the *Geilfine* system the "family" does not appear to have dissolved beyond the extinction of hereditary rights in the land of the family; the organization still continued upon the basis of mutual guarantee and liability; the seventeen houses (or the lesser number actually in existence) formed the patriciate of the "family," jointly liable for the compensation for the wrong committed by members of the family, and jointly entitled to share in certain proportions in the compensation payable for wrongs inflicted upon members of the family. The chief represented henceforth the "family;" not the hereditary rights of the original acquirer, for property falling in from externs vested not in him but the *geilfine* class; to the last the distinction of the "tribe" and "family" must have been clearly marked, the family rested on the lands of inheritance booked to the original acquirer, and *as a family* had no property external to that, the tribe possessed the general undivided tribe lands and the waste pasturage lands; these latter it is to be observed cannot have been included in the lands of the "family" which were finally divided upon the completion of the geilfine system. The claim of an individual to share in the pasturage was founded upon his being a member of the tribe, and had no connexion with his membership of a family, and when, we proceed to consider the Crith Gabhlach, it will be clear that, in the organization of the tribe, the family was wholly disregarded, as in the legion, the individual citizens were equal in the face of the law, and the paternal authority disregarded.

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[*] The difficulty in this explanation is the incomprehensible glosses, page 41, lines 30 and 31. It may be suggested that the glosses in question have been transposed.

The conclusions, to which we arrive, may be briefly stated as follows:—(1) the *geilfine* system was an ingeniously contrived organization of the "family" with the object of keeping it together upon the basis of mutual guarantee, founded upon the antecedent rules of succession to lands of inheritance (*orba*); and of retaining the lands of inheritance in the descendants of the original acquirer, as far as the existing rules as to "remoteness of limitations" permitted; (2) that it was contrived in the interest of the noble classes, who possessed sufficient influence to procure portions of the public tribe lands to be granted to them and their families to the exclusion of the rights of the general body of the "tribe"; (3) that as the general tribe lands were appropriated by the noble class, the system in its earlier stages gradually became obsolute, and merely a subject of antiquarian enquiry; and that the later commentators, especially when once the idea of seniority as the basis of succession had been established, were unabled clearly to explain its origin and probably found more difficulty in understanding it than does the modern student; and (4) that the system when existing in its latest state of survival was adopted as the basis for a system of rules relative to the distribution of the property of an household, to which in its origin it had really no analogy.

IV.

ON THE INCIDENCE OF FINES AND COMPENSATION FOR CRIMES.

It is a cardinal principle of the Brehon Law that the liability to pay the fines and compensation for crimes, committed by a member of a tribe or family, should fall upon the persons who would be entitled to his property upon his death, and in the same proportions.

In this volume there are contained two tracts as to the persons by whom, and the proportions in which, such fines and compensation should be paid, viz., the tract entitled "Of the Judgment of every Crime which any Criminal Commits, &c.," and that entitled "The Land is forfeited for Crime." If we could therefore succeed in ascertaining the mode in which such fines and compensation should be assessed upon persons other than the criminal himself, and in what proportions the fines and compensation payable for the death of any member of a tribe or family should be divided, we cannot fail to acquire a certain degree of knowledge as to the distribution of property upon the death of the owner, and shall be in a position to understand the otherwise obscure rules as to the succession to land contained in the first tract published in this volume.

The former of these tracts would appear to be of a very modern date, and not to be free from the influence of the principles of English Law. The reasons upon which the conclusion is arrived at are the following: (1) it distinctly recognises acts of violence to be crimes, and does not regard them as merely torts, treating the consequences of crimes in the light of punishments for wrongful and illegal acts; (2) the payments to be made by the criminal or his guarantors are considered as compromises by which he may escape the punishment due to his crimes, not as arrangements by which the quarrel between the parties is to be compromised; (3) it seems to recognise a coercive jurisdiction as possessed by the Judge to which the parties were obliged to yield; (4) it treats the execution of the criminal, his imprisonment, or his servitude as the possible consequences of his crimes, and, as a logical result, discusses the contingency of his evasion to escape punishment.

All these ideas are manifestly foreign to archaic law.

The extreme vagueness and uncertainty of the use of the terms "deirbfine" and "geilfine" in this tract are very remarkable; an uncertainty very puzzling to the authors of the glosses and commentary, who have frequently to correct and explain the manner in which these words are used.

It appears that the former term is indiscriminately used in three different senses: (1) as descriptive of all the members of the *geilfine* organization, (2) as the *deirbfine* class as distinguished from the *geilfine*, and (3) as a term descriptive of certain relationship merely.

The glosses and commentary are especially important in dealing with this tract, as without a very careful reference to them erroneous conclusions may be derived from an unaided examination of the original text.

The tract commences with a statement of the property and persons liable to the payment of fines and compensation. The rules of the priority here laid down may be summarized as follows:—(1) The criminal himself was primarily liable; this is to be inferred from the words, "If he absconds," commencing the paragraph, and stating thus the contingency upon which the subsequent secondary liabilities arise; (2) The property moveable or immoveable of the criminal in the second degree was liable; when we proceed to the second tract upon the subject it will appear that this liability was considered as a charge specifically affecting the property in question; it may be observed that this rule involves the idea that the injured party had a *legal right* to the payment of the fine and compensation, a theory of anything but an archaic nature. (3) His father was liable in the third degree, whose liability is obviously founded not so much upon kinship, as upon his position as the head of the household of which the criminal was a member; this passage is glossed with the explanation, "when he has no son, for it is upon him (*the son*) it (*the crime*) should go before it went upon the father;" we may conclude therefore that the author of the gloss would introduce the son into the list in priority to the father; it would appear that the original text contemplates the criminal as forming portion of his father's household, but the author of the gloss perceives that the case of the criminal being himself the head of an household has been omitted, and points out that in such case the son whether as the co-owner of the household, or next in blood would be primarily liable; the old rule of the "coir-feine" law cited in the gloss proves that the liability did not affect ancestors or collateral relations so long as there was in existence issue of the criminal to be made answerable. (4) His brothers, in equal shares; with brothers the liability by reason of kinship here stops short, for the next class in order are (5) his "*deirbfine*" (not deirbfine relations as in the translation, for there is no word in the original equivalent to relations); this word is explained in the gloss as equivalent to "geilfine," and must therefore mean that the liability fell upon the members of the *geilfine* organization, falling upon the several classes successively, and ultimately upon their default upon the *geilfine* chief personally; such at least is the conclusion we draw from the following gloss; viz.: "Upon the chief, i. e. the chief who is over the *geilfine* division which happens to be there; and it is not the chief of the *deirbfine* divisions, nor of the *iarfine* division. It is on them (*the geilfine division*) the crime is charged before he brings it to the "*deirbfine*" division from whom he [*the chief* (?)] has taken their pledges." (6) The household in which is his bed and where he is fed, which seems to mean that the liability then falls upon those who have harboured him and assisted his escape, for these words are qualified by the gloss: "if he is not caught upon his bed." (7) The king, the head of the tribe, as contrasted with the head of the family.

The second paragraph is evidently introduced from the work of some other author, as it is merely a re-statement of the rule laid down in the first paragraph, in a much less satisfactory form. It is remarkable that in the paragraph there is introduced after the "*deirbfine*" a class described as the "taoibhfine," glossed as "his brother's side family." This would lead to the conclusion that in the latter paragraph the "deirbfine" meant not the members of the *geilfine* organization, but the first-cousins of the criminal. It is, however, not desirable to embarrass the clear statements of the first paragraph as explained by the glosses, or to start conjectures resting upon a paragraph so confused as the latter undoubtedly is.

A mere sojourning stranger, from whom the chief had not and could not have taken pledges, if guilty of a crime, and not possessed of property, did not render any of the family or tribe liable to contribute to the fine or compensation payable in respect of his crime; he was simply "put upon the road," declared "exlex," and abandoned to his fate.

(The principle that the liability to pay should be commensurate with right to receive is remarkably laid down in the following rules contained in the Commentary:)

In the case of any unintentional* crime except "killing," the *eric* fine is primarily payable by the criminal; the compensation ("*what he owes beside the eric fine*," i.e. the honour price) is payable by his family "in the proportions in which they divide his property."

In the case of unintentional "killing" (with certain exceptions) both the family and criminal contribute to pay the entire, whether he has means of payment or not, the criminal paying one "*cumhal*" of the compensation, and the same share as his father or son in the six *cumhals* of *dire* fine, the family contributing the residue in the shares in which would divide his property. The reason for this rule is stated to be that if he himself were killed the entire family would participate in the compensation.

As to intentional crimes, the rule was different. In such cases the criminal, his son, and his father were successively liable to the full extent of their property in exoneration of the family.

When payments have to be made by the criminal, they first fall upon his movable, secondly upon his immovable property, and finally upon himself, by which is meant that he should serve for it until he worked out the value of six "cumhals."

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* In page 249, line 1, "*intentional*" is printed by mistake for "*unintentional*."

At page 259 is discussed the proportions in which the amount payable for "killing" should be divided among the kin of the deceased. The words of the Commentary are as follows:—"When the man who is dead in this case has a son, he takes the *cumhal* of compensation alone, if he be alive; and if he is not alive, his father is to take it; if he (*the father*) is not alive, his brother is to take it; if he (the brother) is not alive, it is the nearest person to him that takes it. It is thus the body-fine is divided—three *cumhals* of *dire*-fine go to the son and to the father. There are three cumhals of *dire*-fine remaining after that; a *cumhal* of *dire*-fine goes to a brother (*the brothers?*) collaterally. There are two *cumhals* of *dire*-fine still after this; a *cumhal* of *dire* fine of these goes to the son and to the father. There is one *cumhal* of *dire* fine there after that. This is to be divided from the lowest man of the *geilfine* division until it reaches the uppermost man, and from the uppermost man until it reaches the lowest man," &c.* Thus, of the six cumhals of the dire fine, the father takes two, the son two, the brother one, the geilfine division one. As to what is styled the compensation (the honour price) none of it passes to the geilfine division; this the son, in the first instance, is entitled to; in default of a son, the father; in default of the father, the brother (or brothers); and in default of a brother, the nearest person to him, by which we must understand that it passes as a succession to the person or persons who would be entitled to the brother's property upon his death. This Commentary is appended to a text which deals with the question, "Who are they who divide the chattels and the *dibadh* property (of a deceased person?). The answer to this in the original text runs simply thus—"Four, father and son, brother and family." The Commentary, however, upon this text deals with the mode in which compensation and *dire* fines are divisible, and between whom. Nothing can show more clearly that to the commentator the persons entitled to "dibadh" property and to compensation and dire fine were the same and in the same proportion; but he has certainly failed to explain whether it was in accordance with the rule applicable to the compensation, or according to that applicable to the *dire* fine, the dibadh property would devolve. It would seem that the rule applicable to the compensation, not that applicable to the dire fine, is the analogy to the rule for the devolution of the debadh property. The rule

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* This passage illustrates the connexion between the father and son which so often occurs in ancient law. As long as the son forms one of the household of which the father is the head, he is obviously one of those in the hand of his father, and a co-owner of the household property; but even after he has left the original dwelling and established a hearth for himself, he does not completely succeed in shaking off his connexion with his parent. Hence the three emancipations requisite at Roman law to free the son from the *patria potestas*. It is with reference to this principle that we may explain the passage in the last volume which has produced so much discussion, viz.:—"If the father is alive and has two sons, and each of these has a family of the full number—*i.e.*, four—it is the opinion *of lawyers* that the father would claim a man's share in every family of them, and that in this case they form two geilfine divisions: and if the property has come from another place—from a family outside, though there should be within in the family a son or a brother of the person whose property came into it, he shall not obtain it any more than any *other* man of the family." (Vol. iii., p. 333.) From the present passage it is clear that, although the son established a separate household for himself and his son, the father took a share in the money payable for his body fine; and hence it may be inferred that the father was entitled to support in the son's house. If a son obtained *orba* lands, and, having four sons, established an independent "geilfine" system, it appears that his father could claim a man's share in it. The point of the question in the sage referred to seems to be, what was the position of the father if he had two

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sons, who had both obtained grants of orba land, and severally founded distinct "families" in which of them should the father take his "man's share" and how should his rights be arranged as between the two families?

The opinion referred to laid down that the father had a distinct and independent right to a "man's share" in both of the families, although they formed two distinct geilfine divisions. The second portion of the passage points out the distinction between the rights of a father and that of any other member of the family in the form of an argument, viz.:—"So different is the position of the father from that of any other member of the family, that in the preceding case the father has his right to a 'man's share' in both families, although in the subsequent case no member of a family, whatever be his apparent equity, has any special rights whatsoever." The father in the supposed case would occupy the anomalous position of being a member of two incipient "families."

as to the dire fine laid down in this passage is wholly inconsistent with that stated in page 247, line 2. The latter passage is introduced as explanatory of the rule in page 245, line 26; but it must be observed that the explanation is inconsistent with the rule which it is supposed to explain, and that, to make any sense of the passage, we must read at line 4 of page 247 "share in" for "take." Now, the whole explanation is introduced to explain the apparent anomaly of the family contributing to the payment of the compensation for an unintentional killing, and no such explanation would be necessary unless the fact of the family sharing in the liability to pay, and the right to receive compensation presented some difficulty which required explanation. This difficulty must have been that the rules as to compensation were in some extent inconsistent with what would have been naturally expected to have been laid down upon the subject—that is, that they deviated from the fundamental principle of the rules as to liability to pay or receive fines and compensation with those which regulated the devolution of property upon death.

If the family, by which we must understand the parties liable in the second degree, paid the amount to which the criminal himself was primarily liable, they acquired a charge upon his property, which they could enforce to taking possession and the receipt of the profits. "The limit of *the duty of* the family which pays his, the kinsman's, trepasses until they are paid back every 'sed' which they have paid, together with its profit, the grazing of the grass, nor the must, nor the corn do not go into account against them."*

The injured party appears to have possessed a similar right as against even the land of the wrongdoer, if he had land but the members of the family could discharge the claim against themselves by handing over the criminal, and retain the land for themselves. "And the family have the choice whether to hand him over and have the land to themselves, or whether they will give the land for the crime; and it is within the choice of the family this lies." It follows from this passage that the injured party had an acknowledged, and acquiesced in, right to seize even the land of the wrongdoer in payment of his demand, which would have led to the very inconvenient result of a stranger being settled upon the tribe or family land: what would be the legal status of the stranger is difficult to understand, whether he would be entitled only to the profits of land held by the wrongdoer in exclusive ownership merely, or whether the possession of the land would have drawn with it the accessories of sharing the common tribe land, and the depasture of the waste; to avoid this difficulty the family might surrender the wrongdoer, and themselves acquire his portion of land.

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* Page 257.

The second tract entitled "The Land is forfeited for Crimes," is of a very miscellaneous nature, and of a palpably late date. The idea of the forfeiture of the lands of a criminal, irrespective of their value and amount, arose in the English and other feudal systems from the nature of the tenure of land. The lord possessed the absolute ownership, the tenant only the usufruct upon the condition of the performance of the incidents of his tenure; the commission of a felony, in its nature a quasi-treasonable act, terminated the right of the tenant to the usufruct, and the land escheated to the lord of whom it was held; the escheat of the land in such a case rested upon an entirely different basis from that of the forfeiture of the felons' goods; but when the land was held in absolute ownership, and the possession of the owner was that of the head or member of a family, although his goods might be forfeited, the land could not; the law as to the gavelkind lands of Kent was a survival and illustration of this principle. In the preceding tract the wrongdoer either lost the possession of his land temporarily until its profits paid off the amount to which he was liable, or absolutely as the result of his loss of status, not as a punishment in the correct use of that term. The author of this tract has thrown together a number of loose memoranda and references to authorities upon the subject of the forfeiture of land, and the fines payable in respect of theft, in a manner which would suggest that they represent the heads of some law argument upon the subject. The case upon which he relies is the remarkable decision as to the forfeiture of Bregia by the tribe of Aengus Gabhuaidech, in consequence of the latter having wounded in the eye the King Cormac at his palace at Tara; the circumstances of the case are fully set forth at the commencement of the Book of Aicill in the preceding volume. It is to be observed that in the original authority there is no allusion to a forfeiture of the land at all; the decision was that the members of Aengus' tribe should undergo a "diminutio capitis," viz., that in a certain proportion the inhabitants should be reduced to the condition of "daer" stock tenants: and that which is treated as a forfeiture of the land arose from their refusal to submit to the sentence, and emigrating in a body into Munster. Our author treats the transaction as essentially a forfeiture in the nature of a punishment for a crime. "For what old Adam did great things were lost," *i.e.*, as by the transgression "all the fruits of Paradise were forfeited by Adam, so his lands were forfeited by Aengus."*

Various other passages prove the late date of this tract, and that it was written either by an ecclesiastic, or under ecclesiastical influence, such as the following extract noted down for citation, "God has not formed corruption nor any particular species of violation, the merciful God deems such things atrocious: unless land is given no umpire can heal them, *i.e.*, unless land is obtained as the eric-fine the crimes cannot be taken away, though it be a righteous judge who estimates them, for he would pronounce no falsehood."† In a subsequent passage we find an extract from the Gospel of St. John introduced by the well known phrase of "*ut dixit lex.*" It would appear in one passage that the author was attempting to introduce the doctrine of the Roman "hæres."*

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* Page [illegible]. The peculiar judgment upon this occasion may have arisen from the fact that Aengus, when he wounded King Cormac, was acting in an official character as the "[illegible]" of his tribe.

† Page [illegible].

Although evidently drawn up for some practical purpose, the tone and manner of this tract closely resemble portions of the introduction to the Book of Aicill, which the author manifestly had before him, and it is probably of the same and as late a date.

Apart from a few incidental extracts from previous authors, it cannot be considered as an authority on the Brehon Law, and is valuable as illustrating the change to which the older system must have been subjected from the influence of the Church.

At the date of its composition the Irish lawyers were perplexed by the conflicting ideas of the old law on the one hand, and Christianity and the Roman Law on the other, the state of mind so curiously exemplified by the introduction to the laws of Alfred.

V.

THE SUCCESSION TO LAND.

In the preceding section we have endeavoured to ascertain the proportions in which fines and compensations were payable by the parties secondarily liable, as affording some reliable information as the rules of succession to property, and enabling us thus to explain the passages in the first tract in this volume dealing with the subject, and as also explaining the practical effect of the geilfine system upon the succession to land.

However strongly the rule may be laid down that the liability to pay the fine or compensation falls upon those who would be entitled to the property of the wrongdoer upon his death, and in the same proportions, it is clear that this liability could only fall upon the persons *in esse* at the time, those resembling the class of persons entitled under an ordinary English settlement of real estate, whom we should describe as having vested estates in remainder, and must exclude the unborn issue of all such, although such issue may subsequently come into being, and succeed to the possession of the estate. The rules for the incidence of these payments must have been drawn up to meet ordinary cases; and the more complicated and unusual must have been decided according to the principle involved in these rules—involved, not expressed—because the Brehon lawyer is always dealing with specific concrete cases, and however elaborate in his arithmetic calculations, never attempts any abstract rule or definition. Before discussing the rules as to the succession of land, it may be observed that to a large proportion of the tribe land the legal idea of a succession must have been inapplicable. It is now an admitted fact that the Irish tribe was not in its organization an anomalous institution, but was simply one example of those village communities which existed among all the early Aryan nations, and that the forms of all these communities resembled each other in their general features. In all the numerous books published lately upon the subject, this principle has been laid down; and the difficulty in dealing with the subject at present is not to discover analogous cases, but to escape being entangled in or misled by the countless examples of institutions more or less similar, with which we are now so abundantly furnished. The district of the tribe was at first as a matter of fact, and was always in theory considered to be, the property of the tribe; from this are first to be subtracted the dwellings of the members of the tribe, with their curtilages; next the chief's share; and lastly, those portions of the general tribe land which had been in same manner (it is immaterial how) allotted to individuals or families in exclusive ownership. The residue of the lands, unappropriated to indviduals, consisted of the common tillage and meadow land, and the common pasture or waste. The common tillage and meadow lands were divided out from time to time in separate proportions, and according to some customary law among all the members of the tribe who also enjoyed the right to depasture the waste according to certain fixed rules. It is clear that to these latter two classes of land the idea of succession is wholly inapplicable; the right to till or graze the public lands was a purely personal and temporary right enjoyed by the individual as being a member of the tribe, and enjoyed by his sons, not by any hereditary right, claimed from or through their father, but in their own right as themselves being members of the tribe for the time being. The ownership of these lands was vested in the collective tribe, but the rights of each member were personal, temporary, and incorporeal. But the nature of the interest of the owners in land cut out of the general tribe land, and allotted in exclusive ownership was entirely different. They claimed under a grant made to one or more persons, and made their title through the grantee or grantees; this title to land is usually spoken of as being hereditary, and the land in question described as inheritable land, or land of inheritance; but it does not follow that although the title must be made under a particular grant, and through the original grantee, that the actual owners stand in the relation of "heirs" to the person through whom they claim. Our modern ideas of inheritance and heirship are involved with those of the transmission of property by descent and primogeniture; and much of the confusion which exists upon this subject, has arisen from the inquiry proceeding upon the assumption that purely local and arbitrary rules of our own municipal law are universal and eternal principles.

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* Page 267.

Land might be allotted in separate ownership for a limited period (*e.g.*, for a life), or in perpetuity; but although the former class of grants are found among the A. S. charters, in the case of the Irish tribes we have no reason to believe that the grants were limited in duration.

When land was alienated in *perpetuum*, it passed upon the death of the original grantee to the person or persons entitled, according to the custom, to the succession to his property; such persons might, or might not, be identical with his nearest agnates; but even if they were, it did not follow that their title to the succession was founded on descent or even blood relationship. The origin of all successions appears to be not descent, but co-ownership.

The legal unit is not the individual but the household; the head of a house acquires property for his household, and possesses it as the manager of an implied partnership, not as an absolute owner. The household need not include all his descendants, or consist exclusively of them. The emancipated sons, under the old Roman, would not have shared in their father's property, which would have passed to an adopted son. Our ideas as to the transmission of property in ancient times are, perhaps, embarrassed by too exclusive a reference to the Roman law, in which the hæres presents a misleading resemblance to the feudal heir; but in countries in which the technical unity of the family, exhibited in the existence of the Roman hæres, was not continued, the succession was manifestly equivalent to survivorship among joint tenants; and this principle of survivorship applies not merely to the property of the head of the household, but to that of every member of it. Let us observe how a perfectly simple process is obscured by the use of words. If a household consists of A, the father, and B and C, the sons, they are co-tenants or co-partners in the property of the household, with the father, A, as the manager; if the father, A, dies, the property survives to B and C, the sons; in this case the sons would be commonly spoken of as taking in the character of their father's heirs. On the other hand, if B, one of the sons, dies, the property survives to A, the father, and C, the surviving son; we should in this case think that no rights to property had passed, and speak of the possibility of B succeeding to his father as having ceased. Again, if a third son, D, is born no visible change has taken place, but, in fact, a new member has been introduced into the joint tenancy or partnership, and the rights of the three original joint tenants, diminished *pro tanto.* The extent to which heirship is traced in the collateral line in any ancient law depends upon the greater or less magnitude of the original joint family. If, for any reason, families have hung together for several generations, continuing to form one household, the death of each member increasing the shares of all the other members in the common fund, the extent of collateral heirship admitted by the customary law may be very wide; and, on the other hand, it will be probably found that in the case of a nation which, from some external reason, has acquired the custom of inhabiting small and distinct habitations, the degrees of collateral heirship will be contracted, unless the idea of relationship be kept up by family religious rites. The reason for the rule that the liability to pay fines and compensation falls upon the persons who would take the property of the criminal, and in the same shares, is that, as the family has to pay for the wrongs committed by its members, the payment falls upon the common fund, and diminishes *pro tanto* the shares of all who take by survivorship.

This is illustrated by, and explains, a difficulty which arises as to the incidence of, and the rights to, fines. In some passages the father is the person primarily liable, in some the son, and in some they are represented as jointly entitled to the compensation. Who in any given case were entitled to the succession, or liable for wrongs, must originally have turned upon the question of fact, who, at the date of the death, or of the crime, were the members of the household to which the deceased or the wrong-doer belonged.

The rules as to the succession to land have been embarrassed by the use in the Brehon Law of words descriptive of different kinds of interests in lands, or, rather, of lands distinguished by a reference to the nature of the interests of the possessors; and the terms used are such as involve a cross division. The primary distinction between the general tribe-land and the lands of inheritance is perfectly clear; the former are the *fearan fine*; the latter are the *orba* lands. The latter class of lands are subdivided into those upon which the geilfine organization had been, and those in which it was not, established. The former lands are described repeatedly as "coibne" land—that is, land which was the property of an organized association of persons. The root of the word seems to imply something like the spreading of branches from a common stock, and it is frequently used to denote the association of different individuals considered as one body in a legal point of view. There also occurs another term frequently used as descriptive of land, viz., "dibadh," the explanation of which involves much difficulty. It is used, as has been observed, in the first tract as descriptive of common tribe land as contrasted with coibne land; it is also used to express the property passing from a deceased to the parties entitled to the succession, and it is used in the latter sense evidently to describe the share of a deceased co-owner in coibne land when it passed by succession. It would appear that the term is used rather in opposition to the term "coibne" than as descriptive of any specific class of lands, and desigates land which is divisible among various parties as tenants in common, and not as members of an association. The same land might be described as either "coibne" or "dibadh," according to the rights of the individuals then under consideration. The question as to the succession to "cruibh" and "sliasta," the interests in which were created by express contract, may be postponed until after that of the two other classes—viz., (1) land of inheritance not subjected to the geilfine organization, and (2) lands upon which a geilfine organization had been established

Assuming that the penalty for wrong falls upon the household of the wrong-doer, and that the succession to his property would take the form of a survivorship of the other members of the household, three possible cases would arise—

(1.) If the wrong-doer, or deceased, as the case might be, were a member of his father's household, the liability would fall upon the father, and the share of the deceased pass to him, in both cases in his character of head of the household.

(2.) If the son did not go out during his father's lifetime, and after his death continued in the house in joint possession with his brothers and their descendants, the latter would both incur the liability and take the succession, in each case as the co-members of the household, but the transaction would apparently be different from the preceding case, for the fact of the succession would be here apparent.

(3.) If the son had gone out and established himself as the head of an independent household, the liability would fall upon, and the succession accrue to, his own children or remoter descendants, the co-members of the household, and in this case there would appear to be liability and heirship resting upon descent.

The right to fines or compensation would follow the same rule as the liability to pay them.

In the latter two cases, if we were to speculate who at any given time might be the co-members of the household, our calculation would include all persons necessarily members of the house who could come into being during the life of the wrong-doer, or deceased.

The two tracts in question in various passages state the persons liable to pay and entitled to receive fines and compensation. The statements are apparently contradictory, but a clear idea of the order of priority may be obtained by a careful comparison and analysis. We may disregard the passages in which the general word "family" is used; in all such cases the liability of the members of the family among themselves would be *secundum legem*, and this must be necessarily implied. We may similarly disregard the passages in which the term "the nearest hearth" is used; this term must either mean the household next liable in order according to law, or refer to cases inapplicable to the question of succession.

In page 243 the order of liability is thus described:—(*a*) the father; (*b*) the brother; and (*c*) the geilfine (see the gloss as to the latter term, and the preceding gloss introducing the son in priority to the father). In page 245 it is—(*a*) the brother; (*b*) the geilfine division; (*c*) the deirbfine; (*d*) the taoibhfine or the iarfine division; and (*e*) the iarfine. In 247 it is the son. In page 269 it is—(*a*) the son; and (*b*) the father; and in pages 249 and 268 it is simply the geilfine.

As to the right to receive the compensation, in page 245-6 we are told that the body fine for the death of father or son is payable to the entire family. In page 255 the father and the son of the slain take half the eric fine between them. In the page 259 the body fine of six cumhals is divided in the following proportions:—To the father, two; to the son, two; to the brother, one; and to the geilfine, one.

These fluctuating dicta involve no real contradiction. There is no statement in any of them inconsistent with the others, if we suppose that on each occasion the author is dealing with some specific case, asserting the liability of some individual defendant, but not defining the order of liability of the persons secondarily liable as among themselves.

Bearing in mind the principle, "As long as there is a family before him, it is not backwards he sues," there can be no difficulty in stating the order of liability and the reasons for it.

The liability falls first upon the persons who would be the members of his household; if he were the head of an household, its members would be his own sons, and, therefore, upon the son the liability first falls.

If he has not left his father's family, the liability falls upon the father as the head of the household; if he were dead, those next liable are the brothers who would have been joint owners with the criminal.

Thus the liability is confined to the persons who were, or had been, members of the same household with the wrongdoer; but at this point the liability of relations stops, and the geilfine division of the "*fine*" assumes the liability. There was no intervening liability between that of brothers and that of the general "family."

If we now attempt to translate this priority of liability into a theory of the succession, the following observations appear of importance:—

(1.) The rule that the parties liable pay the fine in the proportions in which they would divide his property, does not imply that *eo instanti* upon death the property would have been divided among the parties named; it means that the liability, as a *damnosa hereditas*, or negative quantity, pursues the same line of succession as the actual inheritance would have pursued.

(2.) The term son must be read as "sons," and inclusive of the descendants of sons, and the observation applies to the term "brother" also.

The sons of the deceased take in priority to his brothers; but of such a rule, when once admitted to exist, there are two possible explanations, either (*a.*) that the brothers succeed if the deceased die without leaving sons or lineal descendants surviving him, or (*b.*) that the brothers, or their descendants claiming through them, succeed to the inheritance upon the general failure of the sons or their descendants, as we should express it, upon the general failure of the male issue of the purchaser; or, as it might be put, whether upon failure of male issue of the original acquirer, his brothers or their descendants would claim as his heirs, or as the collateral heirs of the last of the issue. This involves the question what was the nature of the interest taken by the sons of the deceased in his lands. At the present day, and in the English Law, the eldest son, succeeding as heir to an estate in fee, takes the estate absolutely without any obligation to transmit it to his own heir; according to the old French law of substitutions the eldest son took the estate, but was deprived of all power of alienation, so that the succession upon his death passed to his heir; and the principle of the Scotch tailzie is similar.

In all early systems of law the idea of primogeniture is absent, and the land passes to all the sons; supposing it thus to pass, the practical working of the rule of descent hinges upon the question whether these sons take as absolute owners, with full powers of alienation, or whether all the male descendants of the ancestor have a claim to a portion in the lands which cannot be defeated by their predecessors; and if so, how long does this right exist, or at what date is it extinguished?

Although the tribe may be considered as perpetual, and its members, at however remote a date, retain their rights in the common land, there is no indication that the lands of inheritance were subject to such a rule, which, if it existed, would have bound property in a perpetual entail, and prohibited alienation. It is to be remarked that in no passage is there allusion to land passing to the descendants of an owner generally, and *in perpetuum;* on the other hand, there are frequently allusions to the four first generations of the descendants of the deceased, and the clearest intimation that the head of a family, who was an owner of property, could not alien for his own purposes, to the injury of his descendants, and that there existed in the sons a certain right to the father's land, sufficient, at least, to restrain the latter's power of alienation. The residue of the land of the "*fine*" remains undivided until the constitution of the "innfine" class, which fixes a date connected with existence of a fourth generation of descendants.* Lands were estimated "according to the amount of their property from great-grandson to the great-great-grandson;"† this passage is explained as stating the mode in which land is divided upon the death of a daughter (who must be a daughter, not of the original ancestor, but of the survivor of his sons—although this is immaterial), upon whose death the latest descendants entitled, are specified as the great-great-grand-children of a common ancestor.

A remarkable passage occurs in page 287, which, whether it refers to estates of "*fuidhirs*," or separate property in land generally, expresses the author's idea of hereditary succession. "The son is enriched in the same ratio as his father, and the father does not sell anything to the prejudice of his sons, grandsons, great-grandsons, or great-great-grandsons." Thus, an owner of land was restrained from alienation in favour of his four next generations of descendants, which implies that all the members of these four generations took an interest in the lands of their ancestor; and, if these four generations had thus joint rights in the land, as quasi-joint tenants, the death of any one would operate as a survivorship for the benefit of all the existing members of the class, and the shares in the land would vary, from time to time, according as new members were introduced upon their birth; and if this hereditary right was not transmissible beyond the fourth generation, all the existing members of the class at the date of the last division (the date of the introduction of the last member into the class) would hold in severalty, and form respectively new hereditary stocks. It may be suggested that the reason for the assumption of four generations as the basis of this system of descent, was as follows:—the land vested in the original acquirer, as head of his household, and as a portion of the joint property, which he could not alien during his life, and the rights of those who succeeded to the land were based upon the theory of their being the surviving members of his household. When the fact of succession passed into a theory for succession, the right of succession would be given to all those who could possibly have been existing members of the household at date of the death of the head, and descendants of the fourth degree were considered as the most remote who could stand in that position. A law of heirship founded upon such a basis would draw the limit of collectoral heirship at third cousins; this may seem to some a very narrow and imperfect scheme of title by descent, but the difficulty seems to us not to reduce it to this limit, but to extend it so far. The succession, in default of sons, passed first to the father, and then to the uncles of deceased, but manifestly all more remote collateral relations were excluded, and the succession of the geilfine class was equivalent to a succession to the family to which the deceased belonged. The rights of the heir-at-law, however remote his relationship to the deceased, is a purely English and modern idea, imported into the feudal law by a very transparent fiction, and almost within the present generation, systematized by recent statutes. As against the father or the brothers, there does not seem to have been any restraint upon alienation, and naturally because they could not have been members of the household of the deceased, and they could not be considered, except by a fiction, as having any joint ownership with the deceased in the subject matter of the succession. The "alienation" applied to the ownership of land, such as we are dealing with, must be understood as alienation in accordance with the local custom, and so far as it was thereby permitted, and is not to be confounded with the unrestricted rights of disposal, which we now associate with absolute ownership.

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* Pages 283-287.

† Page 33.

In considering any rules of descent, it must be remembered that the terms son, brother, &c., are correlatives, and possess no meaning until we have ascertained who is the father, brother, &c., to whom they refer—until we have fixed the stirps, the relationship to which determines the succession. The original stirps must manifestly be the head of the household, when the land in question was granted in several ownership out of the common tribe land; but if the right by descent were always traced back to the first acquirer, the extent to which collateral successions would exist must have been far wider than the text authorizes us in concluding it to have been. If we are right in our opinion that the general rule of all male descendants to a share in the inheritance ceased with the fourth generation, it follows that the members of the family who then acquired separate, not undivided shares, each became a new stirps for a fresh line of descendants.

When land has been granted out of the common tribe land in severalty, and as the property of an individual, if the inheritance become vacant by the failure of heirs to the grantee, the land thus left without an owner falls back into the general tribe land out of which it was taken. Whether in such a case it becomes the property of the chief, or of the members of the tribe, depends upon the question whether the chief has, as was ultimately in most European countries the case, succeeded in substituting himself for the general body of the members of the tribe as the representative of the State. That lands of inheritance, upon which no geilfine system had been established, did so revert, is proved by the special rule relative to extern inheritance in the case of a fully organized "*fine*," in which latter case the geilfine division were entitled to a succession, in the nature of an escheat, in vacant inheritances. This we take to be the meaning of the passage in page 285 :—" The geilfine extends to five persons, and it is they that get the *dibadh* of every kindred chief who leaves '*dibadh*' property." The phrase "who leaves" is glossed "who becomes extinct of." The geilfine division are here described as five co-existing persons, who take jointly an inheritance under certain circumstances. There would be no necessity for the observation, if the "dibadh" property in question passed to them as those primarily entitled to the succession; their right to succeed is a privilege connected with their official or local position as the five men of the geilfine division. The property in question cannot have been the "dibadh" property of any of the seventeen men, for it would then have survived to the men of the division of the deceased. This implies that the five men of the "*geilfine*" division represent the entire "*fine*" for the purpose of receiving successions, as they represent the community in being ultimately liable in certain cases for the wrong committed by the members of the "*fine*." If an allotment made to a member of the "*fine*," other than the seventeen men, became vacant by failure of heirs, the land fell not into the common property of the "fine," but became the exclusive property of the five men. If brothers, however, take a succession next to the sons of a deceased, this rule could not (subject to the exception subsequently noticed) apply until the "geilfine" system had been completed, and the land divided among the members, because every member of the "*fine*" must in that case have left a brother or nephews surviving him, except a sixth or younger son of the first *geilfine* chief, and a son of such son, or a sixth or younger son of the second "*geilfine*" chief, &c. Successions so very rare as these could not be considered as in the nature of a privilege or the subject of a special rule, and, as up to the date of the final partition the "geilfine" chief is assumed to be the owner of the waste, there would be little object in such a regulation; but its meaning is evident if it implies that the fifth "geilfine" chief, and his four brothers, who jointly form the last and permanent "geilfine" division, continuing to represent the "*fine*" for the purpose of liability, continue also to represent it beneficially as entitled to the succession to vacant inheritances. Their position would in this case be very similar to that of the lord of a manor in the English law.

It is stated in the introduction to Mr. Curry's Lectures that the succession was at first to the sons or remoter male issue exclusively, but that ultimately the daughters became entitled if there were no sons.* Although the authorities cited to support this seem to the cases and rules dealing with *cruib* and *sliasta* land, there is no reason to doubt the general accuracy of the statement.

There are, undoubtedly, in the glosses to the first tract in this volume, indications that at the date of the glosses, daughters had succeeded in acquiring a right to succession upon the death of their brothers, and that the later lawyers altered the original text, by the introduction of words supposed to have been omitted, and thus corrected the law to make it accord with the later usage; thus, in the original text at page 39, line 23, there is the passage, "an extern branch stops it (*i.e.*, the property) if the five persons *of the geilfine-division* perish." This is glossed as follows—"and in this case there is no female heir." This gloss manifestly follows up that in page 41, line 24, referring to page 39, line 16, "all the *geilfine*-division have become extinct, and all the land is obtained by the daughter in right of her female 'coarb'-ship, or as I have to tell concerning the *dibadh*-land of the head (cınɒ) to whom the land belonged, *i.e.*, the daughter; it is then the land is divided among the three tribes." The right of females to a succession would be manifestly suggested by the feudal law; the first English settlement was founded upon the assertion of this principle; and such a doctrine would be popular among the owners of land, naturally desirous to transmit their property to their female issue. The principle of female succession to lands other than *cruibh* and *sliasta*, does not exist in the original text, and appears as struggling into existence at the date of the latest commentators; such a theory of succession is in contradiction to the old conception of the household, and that it was repugnant to the opinions of the older school of lawyers is shown by the restrictions by which it was limited even in the case of *cruibh* and *sliasta* land.

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* Manners and Customs, vol I., p. clxx.

The obvious objection in a system of tribe law to female succession is that it naturally leads to alienate the lands of the family, and by intermarriages with externs to transfer them to members of a foreign tribe. This difficulty arose in the days of Moses. Thus, on the petition of the daughters of Zelophedad, of the tribe of Manasseh, who had died in the wilderness, Moses laid down the rule that the daughters should succeed to their father's inheritance if there was no son;* but the objection to this rule was soon perceived and stated by the fathers of the family of Gilead, viz., "if they be married to any of the sons of the other tribes of the children of Israel, then shall their inheritance be taken away from the inheritance of our fathers, and be put to the inheritance of the tribe whereunto they are received; so shall it be taken from the lot of our inheritance."† The rule, as originally laid down, had to be modified by the annexed proviso, "every daughter that possesseth an inheritance in any tribe of the children of Israel, shall be wife unto one of the family of the tribe of her father, that the children of Israel may enjoy every man the inheritance of his father. Neither shall the inheritance remove from one tribe to another tribe, but every one of the tribes of the children of Israel shall keep himself to his own inheritance."‡

At whatever date female succession was established, it appears to have been subject to a restriction similar in effect to the later Mosaic rule. "A female heir is here *referred to* who has had the father's and the grandfather's land for a time, and though she should desire to give it to her sons, she shall not give it."§ The introduction of female succession to land is contemporary with the birth of the idea of absolute ownership, and fixes the date at which the idea of the family and tribe is finally broken up. Although the rule of female succession existed under the Brehon Law it may be regarded as a proof of the late date of the author who asserts it as a rule, and must be rejected from any statement of the ancient law of succession.

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* Num. 27, 1. † Id., ch. 36, 1. ‡ Id., v. 8.

§ Page 39, see gloss, p. 41, line 4.

The succession to the cruibh and sliasta land rested upon express contract, and this class of lands consisted of those which, to use a modern term, were settled upon the marriage of a daughter of the house; that this form of succession was considered as an infringement of the common right of the family is proved by the necessity of obtaining the consent of the *geilfine*-chief to the contract. The effect of this contract, it would appear, was to introduce the daughter into the class entitled to the succession upon the death of the father. It must be presumed that the daughter during her life was entitled to the possession, as in the Welsh law in analogous case it is stated, "her gwaddol constitutes her proprietorship if she abide by her kindred."* The succession of her children was, however, much restricted; if she were married to a native freeman, her sons would be themselves entitled to the rights of full members of the tribe and upon the obvious principle that they could not claim at once under and against the custom, they lost, for the general benefit of the family, two-thirds of the lands; if her sons were, through their father, "exiles and foreigners," *i.e.*, if they had no claim to any portion of the family land under the customary law, they were left in possession of the entire at the will of the family, "while they are doing good with it." If the only issue of the marriage were daughters, there appears to have been a question whether they were entitled to a succession. Their right to the land was established by a leading case decided by Brigh, probably the wife of the Brehon Sencha previously referred to,† and it would seem that the passage introduced in page 41, line 16, is intended to be a report of the judgment. The case is thus stated—"The mother had died, and left no son, and there are no sons, but daughters only And the daughters shall obtain all the land with obligation to perform service of attack and defence, or the half of it, without obligation to perform service of attack and defence; and there is power over them to compel them to restore the land after their time." Hence it would appear that they were bound to indemnify the tribe against loss by reason of their incapacity to serve, or to compound for this liability by surrender of half the land, as a tenant of a lease, perpetually renewable, may, upon obtaining a fee-farm grant, free his holding from future liability to rent by releasing to the landlord a proportionate part of the lands; and that the interest taken by the daughters was for their own lives, and upon their death the lands fell back into the common fund of land out of which it had been taken.

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* Ancient Laws, &c., of Wales, vol. 2, p. 607.

† Page 17.

VI.

JUDGMENTS OF CO-TENANCY.*

The subject of this tract may be more correctly described as the rules regulating the mode of the partition of lands held by joint tenants, and the rights which, upon the partition, arise between the owners of the several portions.

The composition of the tract is remarkably consecutive, and, from the author's point of view, logically developed. The commentary is unusually clear and intelligible, although in some instances explanations are introduced which anticipate, or are merely copied from, subsequent passages of the original text; thus the commentary in page 77 is identical with the text at page 113; and towards the end of the tract passages evidently taken from other writings are introduced, some of which are difficult to understand, and others directly contradict the leading principles laid down in the body of the work. A remarkable instance of the latter case occurs in page 147, from line 6 to line 19.

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* The word translated in the text "co-tenancy" is translated by Dr. O'Donovan as "joint-tenancy." This is a very remarkable error not as to the meaning of the Irish word, but of its presumed English equivalent. The subject discussed in the tract is the rights arising between persons, who have ceased to be joint-tenants by a severance of their joint-tenancy, and become owners in severalty of their separate holdings. We have no English term expressing such a legal relation, and the words "co-tenancy" and "co-tenants" have been used as the nearest equivalent expression. The learned translators did not profess to be skilled in the terms of English law, but they grievously embarrassed their translations by the use of technical words which they could not be expected to understand. The present editors have carefully removed from the translation every English term, the use of which could lead only to a misconception of the original text.

This tract does not apply to any process similar to the modern enclosure of a common. That the general tribeland or public pasture should be cut up into separate lots, and divided among the members of the tribe in absolute ownership, was foreign to the ideas of any early community, and the author, at the commencement of the tract, carefully points to the circumstances under which the relationship described by him as "co-tenancy" arose. "Whence does co-tenancy arise?" he asks; and to this question himself replies—"From several heirs." We are here reminded of the important statements referable to the land of the "*fine*" in pages 287 and 285, the former of which states that the land of a family was not at all divided, and the latter states that in certain circumstances the members of the *geilfine* organization divided among themselves the residue of the tribe land as dibadh land, and that thereupon the family relations ceased, and there was henceforth what was called a community of people. The partition of the lands need not be confined to the case of a "*fine*," but must be extended to the breaking up of any inheritance among several heirs, which, if the theory of the rules regulating the succession to land hereinbefore proposed be correct, necessarily took place on the completion of the fourth generation of the descendants of the founder of the household or first acquirer.

The author understands that the pre-existing rights, which depended upon joint ownership, are determined by the fact of the partition, and that the owners of the several lots must henceforth deal with each other individually, and that their mutual rights depend upon an agreement contemporary with the division of the lands. "The heirs, in the first place, partition their shares and their possessions, and each of them guards against the other of them, and each of them gives *a pledge of* indemnity to the other."* The reciprocal rights between the adjoining and now independent owners, which are to be thus secured by mutual pledges, would in the civil or English law be inferred in the case of any adjoining owners, and the transaction takes the form of the mutual covenants, which are sometimes necessary, to meet peculiar circumstances, in our deeds of partition. It is, however, to be observed that the giving of the indemnity was not accompanied with any detail of the extent and nature of the indemnity itself, which was defined and explained by reference to the custom, and that the material pledge given and preserved was not the *corpus* out of which the compensation or damages was to be paid, but rather the evidence of the existence of a contract the nature of which was assumed. " Each cotenant shall place a pledge of *the value of* two 'screpulls' on one of the rack pins of each other's at the foot of the bed as *security* for the fulfilment of the *duties of* co-tenancy; and though he should not fulfil them, this is not the pledge that shall be forfeited for it, but the 'smacht'-fine which we have mentioned before, or sacks, or fines for man trespass according to the nature of the trespass, if trespass has taken place therefrom."* The subsequent relation of the parties is clearly expressed in the phrase —" the new custom avoids the security,"† meaning that the relations which had previously existed between the parties, arising by implication from their position as joint owners, had come to an end, and that their subsequent mutual rights rested upon the legal consequences of the interchange of pledges.

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* Page 69

The several lots in the land to be divided having been ascertained, the duty of sufficiently fencing their respective shares fell upon the several parties. There are no rules given for the extent of fencing, which each several owner was to execute, and as each fence was common to two properties, it must in every case have been a matter of arrangement between the parties; but very specific directions are given as to to the size and materials of the fences to be erected. There are four kinds of fence specified; (1) a trench, corresponding with what is now usually called in Ireland a "ditch;" a trench with the earth dug out of it, piled on one side of it in the fashion of a wall or mount; the trench was to be three feet deep, three feet wide at the top, one at the bottom, and two at the middle. The mound corresponded with the form of the trench out of which it was excavated, being three feet in height, three feet wide at the base, and one foot at the top. (2) A stone wall of six feet in height, three feet wide at the base, and one at the summit: this was evidently a dry stone wall like those now common in the West of Ireland, because the only instrument specified as necessary for their erection is an iron bar, and there is no allusion to the use of mortar. (3 & 4) The other two kinds of fences, described as a "strong" or "close" fence, or a "*felmadh*" (otherwise a naked) fence, were of wood or timbers set together; the details of these are elaborately given, but must appear to the modern reader rather obscure. The former is thus described: "the top of the one tree shall be on the trunk of the other tree, and so as that the smallest sucking pig could not pass through it for its closeness, nor the ox pass over it for its height." The latter class of fence was not of so substantial a nature. "The naked fence should be thus *made; the length of* a foot to the articulation *(or separation)* of the big toe is to be between every two stakes, and six feet in its height, or twelve hands, if it be measured by hands; and three bands of interwoven twigs upon it, a band on it at the bottom, another in the middle, and another at the top, and a certain space between every two bands; and a hand is the length of the pole (*the interweaving*) from that out, and a blackthorn crest upon it at the top; and every stake should be flattened at top by three blows struck on its head, after being first thrust *by the hand in the ground* as *well as* you can."* The nature of the fence depended upon the nature of the place in which it was to be erected, which is thus explained—"a trench or a stone wall in the plain; and the naked fence in the half plain, and the close fence in the wood."* It appears from this that the right of separate ownership was not confined to arable or even grazing lands, but in some cases included what would have been expected to have formed portion of the waste of the tribe; this separate ownership of forest accounts for what would be otherwise difficult to understand, the liability of owners of lands for trespasses committed by wild animals.† The constant and regular attendance of all the parties engaged in the fencing was attempted to be secured by the very *naif* rule; "each of them shall give his victuals into the hand of the other at night, that he may remember to come in the morning to his share of the cotenancy *work*; and the victuals of the person that will not come may be safely used, and if the victuals of any of them be used, he shall pay fine for overuse."‡

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* Page 75. † Page 74.

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* Page 77.

The whole theory of the damages paid in respect of the most usual form of trespass, the trespass of a neighbour's cattle, was calculated after the usual Brehon fashion, every possible form and incident of the trespass being introduced, as an arithmetical quantity, influencing the ultimate result. In a passage in a later portion of the tract§ the actual amount of damage done is suggested as the basis to calculate the sum of the compensation to be paid. "A worthy neighbour is brought to appraise the trespass, and grass of equal value is *given* at the decision of the neighbours;" this matter-of-fact mode of estimating the damage was probably considered unscientific by our author who proceeds to lay down every possible element in estimating compensation, and to annex to each a fixed value. These distinctions, if stated at length, would occupy much space; and the actual amount payable in respect of any supposed trespass, or the possible number of results which might be produced by varying the elements of the calculation, is of little practical importance. This desire to reduce matters necessarily fluctuating to certain results, this wholly misapplied pretension to arithmetical accuracy, was the essential vice of the Brehon law, and the glory of its professors; the working of this system was so fully explained in the introduction to the last volume, that it is unnecessary here to recapitulate it, and it is not needful on the present occasion to do more than to summarize what were the chief elements in their calculations upon this subject. The personal responsibility of the defendant, either by wilful acts or culpable negligence, divided all trespasses into "man" trespass, and ordinary or "cattle" trespass. The extent of the trespass, whether the cattle had merely run in and upon the lands, or walked about thereon and eaten the verdure and crop; or had spent some time there not only eating but lying down, was also defined; and technical names were given to these species of trespass, viz., "tairsce," "airlim," and "feis;" and the proportion of damages payable in respect of each fixed, as so constantly occurs in these calculations, in the geometrical ratio of two.* The time at which the trespass took place, whether by day or night, had to be taken into account; the former involving twice the compensation of the latter. The season of the year could not be overlooked; we are told, "that the year is divided into two parts for regulating '*smacht*'-fines, for the '*smacht*'-fines of each quarter are not alike, *because* it is difficult *to regulate* the '*smacht*'-fines of the winter season, and of the spring cold, for saved provisions are more precious than growing grass."† The nature of the crop upon the land was obviously the principal element in the damage; the questions of the existence or sufficiency of the fence, the period of the duration of the trespass, the number of cattle which trespassed, the number of gaps they crossed the fence, all affected the result in fixed ratios. As a specimen the

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* Page 77.

† Page 121.

‡ Page 77.

§ Page 147.

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* See the calculation as to the extent of the precinct, *post*, page 227.

† Page 79. The division of the year, stated in the text, into two unequal parts, viz., the summer period comprising five months, being the last month of spring, the three months of summer, and the first month of autumn, and the winter period comprising the last two months of autumn, the three months of winter, and the first two months of spring, was made, in the opinion of Dr. O'Donovan, with the object solely of regulating the price of grazing lands.

"That the Pagan Irish divided the year into four quarters is quite evident from the terms *Earrach*, *Samhradh*, *Foghmhar*, and *Grimhridh*, which are undoubtedly ancient Irish words, not derived from the Latin through Christianity; and that following rules may be taken, as to cases really simple, and involving only four of the above elements. "Four sacks *are due* for *feis* trespass in a winter grass field over a full fence, two sacks for '*airlim*'-trespass, and a sack for '*tairsce*'-trespass. If it be trespass upon a pastured field of winter grass land, or upon an inclosed field of winter mountain land, or winter wood, or an old winter milking place, or into an inclosed field of summer grass land, two sacks are due for '*feis*'-trespass, and a sack for 'airlim'-trespass, and half a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of winter mountain, or winter wood, or an old winter milking place, or a pastured field of summer grass land, or into an inclosed field of summer mountain or summer wood, a sack *is due* for '*feis*'-trespass, half a sack for *airlim* trespass, *and* a quarter of a sack for '*tairsce*'-trespass. If *it be trespass* upon a pastured field of summer mountain, or summer wood, or summer old milking place, half a sack is due for '*feis*'-trespass, and a quarter of a sack for 'airlim' trespass, and the eighth of a sack for 'tairsce'-trespass. The eighth of the eighth *is the fine* upon every trespassing animal, for every beast is a trespasser in a co-tenancy. For the 'tairsce'-trespass of one animal upon a pastured field of summer mountain pasture, whatever *animal* commits it, the sixth part of the half of one sack is due,"[*] &c. The liability for the trespass is very clearly based upon the neglect of the owner, as appears from the exceptions, viz., the cattle being driven over by a man or dog; or straying in consequence of heat or fear, or owing to any kind of violence; but these exceptions very properly extend only to "airlim" trespass, for if the cattle be left on the land to

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each of these began with a stated day, three of which days are still known, namely, *Bealltaine*, otherwise called *Ceideamhain*, or beginning of summer, when they lighted the fires at *Uisnach* at the beginning of *Samhradh*; *Lughnasadh*, the games of Lughaidh Lamh-fhada, which commenced at Taillte on the first day of *Foghmhar*, the harvest; and *Samhain*, *i.e.*, *Samh-fhuin*, or summer end, when they lighted the fires at Tlachtgha.

Introduction to the "Book of Rights," p. liii., but see the gloss which Dr. O'Donovan himself cites in the subsequent page.

[*] Page 81.

eat and lie down, there is neglect on the part of the owner, and the trespass becomes "feis"-trespass.

In the case of lands not in cultivation or grass the fine for trespass takes a pecuniary form; thus in the case of the church of a "nemadh" person it is stated to be an ounce of silver, and the estimation of the amount is combined with the number of eighty-four cattle, in a manner which is far from clear; in the case of a king's dun fort, or a churchyard there is no money fine fixed but "every hole made in the place is to be filled up with eric-sod and the place pressed, stamped and levelled.*

The trespass of horses involved a different question from that of cattle; the mere halting of travellers on their road could scarcely be considered in the light of a wrong, and at the same time an entry with horses upon land might result in an action for the recovery of the premises, and it was the duty of all the members of the tribe or family to prevent thus, in an indirect manner, the institution of legal proceedings. Hence arose the two forms of horse-trespass, technically known as "*fothla*" and "*tothla*" trespass. The former arose when travellers unharnessed their horses upon the land of an absent man, and asked a neighbour accidentally present where they had unharnessed their horses; it was the neighbour's duty to tell them that the land was the private property of the absent owner, and to warn them off, whereupon if they did not leave the place they were liable for the trespasses of their horses; on the other hand if the neighbour saw them with the bridles in their hands, as if in the act of making a legal entry in assertion of a right of ownership, he was bound to question them as to their object, and in default of so doing, became himself liable for the trespass, if the strangers were ignorant that they were intruding upon a separate property. The second case arose if unknown strangers unyoked their horses in the land of a separate owner, and the neighbour, accidentally present, either expressly informed them, or by his silence permitted them to believe, that they were not committing a trespass, in which case he was himself personally liable for the damages. This passage would lead to the conclusion that the elaborate fences, directed in this tract to be erected about the lands allotted in severalty, very frequently, if not ordinarily, had no existence.

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* Page 87.

The trespasses of swine naturally were the subject of customary rules; "if they eat the grass they are trespassers like other grazing cattle. If they root up the land, other land shall be given until proof of the restoration of the land is completed; that is until two horses in yoke are brought and left there, and it is seen that no part of the earth stick to their teeth while grazing it."* The damages for the trespass of swine were of course fixed with reference to the supposed size and age of the pigs, but in a preceding passage reference is made to an old and purely fanciful rule that the hole made by the pigs should be filled up with corn and butter; if such a rule existed it must be referred to some religious origin.†

The young and troublesome pet pig, a constant source of mischief, was a subject of special rules; it was evidently regarded as the prime cause of breaches in the fence and the ringleader of the cattle in the homestead; "the young pig which first breaks *through the fence*, and shows the way to the herd, there is a '*smacht*' fine upon him equal to that of one animal. The second time that he goes, there is a '*smacht*' fine upon him equal to that of four animals, and compensation equal to that of two animals. The third time that he goes, there is compensation upon him equal to that of three animals, and a '*smacht*' fine equal to that of seven animals. The fourth time that he goes, there is a '*smacht*' fine upon him equal to that upon the whole flock, and compensation equal to that upon four animals."‡

The rules having been fixed as to ordinary trespasses, our author proceeds to discuss what must be considered as purely imaginary cases; it is difficult to see where the rules of practical importance end, and where merely legal speculations, and vain distinctions and discussions commence;

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* Page 97. † Page 99. ‡ Page 109.

but when the amount of "smacht" fine and compensation for the trespasses of pet herons, hens, pet deer, pet wolves, pet old birds (hawks), pet foxes, and bees becomes the subject of quasi-serious discussion we surely have left the regions of practicality behind, and are witnesses of useless displays of pure dialectic subtility.

As to bees it is very naturally remarked that their owner cannot prevent their leaving his premises and flying into those of his neighbour, "for they are swift, and there is no restraint upon them, and because they do not fly all together;"* in this case the owner was not guilty of a wrong as incident to their trespasses, and therefore there was no '*smacht*'-fine payable in respect of it, but merely compensation. The only occasion upon which the bees of a neighbour can be understood to commit trespass is when they swarm into the adjoining land; the sole injury incident to this trespass is occupation by the swarm of some infinitesimal portion of the neighbour's land, and the trespass involves its own compensation, for the swarm fix their nest and make their honey on the spot they thus wrongfully occupy. Thus the compensation for this trespass resolves itself into a joint ownership of the honey produced by the swarm:— "How is the fine of their produce paid? At the time of smothering the bees, the man who sues makes a seizure of that honey, and it goes into the keeping of safe hands, and it is afterwards submitted to award. The decision which is right to make afterwards concerning it is to divide the honey between them into three parts, i.e., a third for attendance, and a third for the bees, and a third for the owner of the land. And the third *allotted* for the land is itself divided into three parts, *i.e.* a third is given to the man who owns the bees on account of the land from which they come, the other two thirds are divided between the four nearest farms, *i.e.* where the food is. If this distribution of it every year shall be deemed tiresome, each nearest farm takes a swarm."

This passage affords us a means of understanding the manner in which these Brehon tracts are composed. The whole question of bees is discussed in a subsequent tract in this volume, and, upon a comparison of these rules with the latter tract, it is evident that there were subsisting certain simple well-known customs as to swarms of bees, and that each author simply uses the subject-matter as a means of displaying his dialectic powers in the elaboration of rights and rules which never were attended to or expected to be observed.

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* Page 105.

The question of the bees having been dismissed, the next which is discussed at great length is that of hens. The trespasses of hens may involve negligence on the part of the owner, for by proper rag-boots fowl may be restrained from wandering; the absence therefore of rag-boots bring hen trespasses within the class of man-trespasses, as resulting directly from the negligence of their owner, and consequently within a higher scale of damages. Great ingenuity was displayed in classifying the nature of hen trespasses; first, the trespasses of a hen within a house, which are subdivided into three classes, viz., snatching away, spilling, and wasting, for which respectively different compensations were fixed; secondly, trespasses outside of the house in the garden, subdivided again into soft swallowing of bees, injuring roidh-plants, and injuring garlic; and further in such case arose the further questions whether the bird were a cock or a hen, and if the latter whether it were or were not barren. The inconsistent repetitions in the commentary relative to this case prove that it was a favourite subject of discussion in the schools.

The most extraordinary discussion is reserved for the case of dogs, the authors of which were certainly devoid of any sense of the ridiculous. The feeding of a dog naturally involves responsibility for its acts, but the dog trespass, which particularly attracts the notice of the author of the original tract is that involved in his depositing his ordure on the land of an adjoining owner. The commentator remarks that there are four trespasses of hounds, viz. man-trespass (*i.e.* trespasses against men), mangling of cattle, breaking of dwellings, and committing nuisance on land. The three former he passes over without notice, and proceeds to consider the interesting questions which arise under the last head; "what is required by law is to remove the dog's ordure out of the ground as far as its juice is found, and it (*the ground*) is to be pressed and stamped upon with the heel, and fine clay of the same nature *is to be put there* as compensation. This is the test of reparation; that two horses of a chariot in yoke come there and graze there, and if no part of the sod of grass stick to their teeth in grazing on it *the reparation is complete*. And three times the size of the ordure *is due* for compensation, and its size of butter and its size of dough and its size of curds; and the part of them that is not obtained in the one is to be claimed in the other afterwards. And if it be in the presence of the owner that the hound has committed nuisance on the grass, a fine for man trespass shall be paid by him for it."*

Man-trespasses, properly so called, wrongful acts committed by the defendant himself in respect of the land of an adjoining owner, are divided into various classes, and described by specific technical names; but as no explanation is given of these terms, with the exception of "fothla" and "tothla" trespasses, it is impossible to explain the distinctions to which they refer.†

The subject of "man-trespass" is resumed at a subsequent page,‡ and treated of at considerable length and in the usual manner. The first wrongful act discussed is that of cutting down trees or underwood upon the land of another. The various species of trees and shrubs are divided by the original writer, and more in detail by his commentator, into various classes, founded upon some nobleness inherent in the trees themselves, and the extent to which the tree is injured forms of course an element in the calculation. The following extract is sufficient to illustrate these rules:— "For the cutting of trees or stripping them, full '*dire*' fine is paid for each, *i.e.*, a perfect compensation for the portion of them which is damaged, and five '*seds*' as '*dire*'-fine.

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* Page 123.

† Page 99.

‡ Page 147.

But all trees are not equally noble, for there are seven chieftain trees and seven common trees, and seven shrub trees, and seven bramble trees, and the '*dire*'-fine for each is different. The chieftain trees *are* oak, hazel, holly, ash, yew, pine, apple. The '*dire*'-fine of the oak; a cow-hide *is due* for *stripping off it* the barking for a pair of woman's shoes; and an ox-hide for the barking of a pair of man's shoes; and also to cover it until the test of its recovery is had, *i.e.*, smooth clay and cow-dung and new milk are to be put upon it until they extend two fingers beyond the wound *on both sides*, and half *fine* shall be for it until it is whole. For cutting the trunk a cow *is paid*, and five seds are its '*dire*'-fine. A *colpach*-heifer *is the fine* for their great arms, or for their small oaklings; a '*dairt*' heifer for their branches. The '*dire*' fine of every chieftain tree of them is such."*

The only class of man-trespass dealt with is the breaking down and passing through a fence† (the English trespass *quâre clausum fregit*). As to this, distinctions are drawn having reference to the extent of the breach and the status of the wrongdoer, and in the latter case the compensation to be paid by the native freeman in every case is double of that payable by a stranger, probably because the payment of compensation arises from an implied contract, and is not founded in theory upon the tort.

There are four exceptional cases in which it was justifiable to make gaps or breaches in private fences:—(1) a breach before the hosts, which is glossed to mean "in flying before an host," but which reference seems rather to mean "to permit the advance of the host"; (2) before provisions, glossed "of the host," which would mean, for the purpose of bringing up supplies to the host; in both these cases the host must mean the armed array of the inhabitants of the district in which the fence is situated; (3) for the passage of chieftains "if they had found no other passage," and (4) for the conveyance of materials for the erection of any of the following buildings, (*a*) a mill, (*b*) an oratory, (c) a shrine, and (*d*) a king's dun fort.

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* Page 149. See the notes appended to the text as to the meaning of this difficult and obscure passage.

† Page 153

The principle of a right of way of necessity is clearly stated; such rights must have immediately come into existence upon the division of joint tenancies into separate lots; this right is however fenced in with peculiar restrictions which prove the exclusive possession by its owner of the servient tenement, and the anxiety of proprietors to prevent the acquisition by their neighbours of easements by continued user; "There is one stay (*quere*, restriction on full enjoyment, or easement) which every co-tenant is entitled to from the other, *i.e. in* a land without an opening, without a road, without a way; he is entitled to full passage over every co-tenant's land that is next to him, but the manner in which he is bound *to pass* is *with* six persons about him, three persons from the owner of the land, and three persons from the man who seeks the passage *shall attend* to keep them (*the cattle*) close to the fence in order that they may not spread over the land. If he has a way, this may be omitted; if there be two mounds to it, or two stone walls, he is restrained by them, for they are witnesses.'*

The liabilities or duties annexed to lands held in several ownership are expressly laid down in this tract; this subject has been already noticed with reference to the rights of women to land, but the enumeration in the following passage is worthy of a reference:—

"The liabilities of land now, *i.e.*, service of attack and defence against wolves and pirates, and *attendance* to the law of the territory, both as to the hosting and feeding and service of defence."

"The liabilities as regards roads, *i.e.*, a fence *is required* for it alone, and *it is necessary* to cut them and cleanse them, and remove their weeds and mire in time of war and of a fair; and because it is expected that each should assist the other.†

Very interesting information is given incidentally in the commentary on this tract, which proves the existence at the date of its composition of tenants in the modern sense of the term, holding land for periods either fixed or uncertain, and paying rent in kind. The details as to this mode of land arise incidentally from the discussion of the liabilities and rights of the owner of a several lot, who is absent at the date of the partition and as a necessary consequence does not erect the fences between his portion and those of the adjoining owners, or who leaves the district to escape the fulfilment of his duties in this respect. In such a case the two adjoining owners would have no complete fence to their portions, as far as they meared the lot of the absent man, and his abandoned lot would lie between them, enabling their cattle to trespass across upon their respective holdings. In such case the adjoining owners can distrain upon his property, if he has any, until he makes the fence; if he has no property they can distrain the "next of kin to him of his family," until they fulfil his duties on his behalf. This is explained in the commentary as follows:—"Let them distrain his family until they fence their brother's land,"* showing that the liability would fall on the members of the household to which the absent man had previously belonged. If his family were unwilling to fulfil this obligation, they could escape it by conceding the right of grazing the land to the two adjoining proprietors, who in consideration of the year's grass themselves complete the fencing of the land, and occupy the derelict lot with their cattle in equal proportions. If the absent man return in the course of the year, and find that, his family having refused to fulfil his duties on his behalf, his lands are in the possession of his neighbours, he was held to have a claim upon his family, who by their failure to perform their duties to him had caused him to be temporarily left without home or farm. His rights under these circumstances against his family are explained in the following rather obscure passage:—"If the deserter has come *from* outside *into the territory* after this, his family shall give him land during the term of the hire (lit. loan), and they shall obtain the hire, and the part of his farm-buildings which he may have found on his coming back shall be obtained by the deserter. If his family have land, and they give not *it* to him, the hire is to be obtained by those *who are* outside, and the portion of the erections which the law has not declared forfeited, the family shall purchase for him. If the family had no land at all, they equally divide the hire between the time and the labour, and he himself purchases the portion of the erections which the law has not confiscated. If the family have land, and he would not accept of it, the hire shall be divided equally between time and labour, and he shall obtain no portion of the erections."* The explanation which we suggest for this passage (the general meaning of which is not obscure) is that notwithstanding the division of the land in several lots, there still survived certain obligations among the members of the several houses, both towards third parties, and to one another to aid in carrying out the works incidental to a partition, and therefore if the family failed to fulfil their duty to an absent member, and permitted the adjoining owners, in consideration of fencing the land, to occupy it for a year, they were bound specifically to compensate the owner on his return for the temporary loss of his holding. If the word translated "hire" is taken in the double sense as meaning both the "letting" and the "subject-matter of the letting," the rules may be read thus:—

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* Page 157.

† Page 145.

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* Page 131.

A. On his return his family must provide an equivalent in land during the residue of the year; his family shall be entitled to receive from him the letting value of the land, and at the end of the year he shall be entitled to whatever "improvements" shall have been made by him on the portion of land so allotted to him.

B. (1.) If his family have land of their own and do not allot to him an equivalent thereof during the residue of the year, land must be procured for him from a third party during the period, and his family pay the rent of it for him, and all the "improvements" which he shall have effected on the land at the end of the year must be purchased by the family for him.

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* Page 131.

(2). If the family have no land, they must give him in time and labour an equivalent to the value of his land during the residue of the year, and he must in this case himself buy in what in the preceding case the family were bound to purchase for him.

(3). If his family offer him a compensation out of their lands, and he refuse it, they are bound to compensate him in time and labour equivalent to the value of the land for the residue of the year, and he loses all right to the improvements.*

The difficulty in understanding this passage arises specially from the mode in which the rights of third parties are made apparently to depend upon the dealings between the owner and his family and as was before stated this explanation is very uncertain and not perhaps more than conjectural in its details.†

Some commentator upon this passage, fortunately for us, has had his attention directed to the question as to the rights to the "erections" upon the land, and not very logically proceeds to explain the rules on this subject as between landlords and tenants in the modern sense of the term. From this passage we conclude that there were two modes of letting land, viz., for an indefinite term, and for a fixed period, but that in both cases the lessor could resume possession, and that the fact of the period of the holding being ascertained bound the tenant and not the landlord. The terms "with necessity" and "without necessity" in this passage, applied to the act of either landlord or tenant in determining the tenancy, are the same as are used in reference to wrongful acts in the other portions of these laws, and in such passages they have been translated as "intentional" and "unintentional;" the meaning of the word "necessary" as qualifying an act may be taken to be that the act in question was the natural result of the circumstances in which the person who did it was then placed; thus a "killing with necessity" would include justifiable homicide or manslaughter, and a "killing without necessity" would be equivalent to our term murder, meaning the slaying of another wrongfully and "with malice aforethought;" the best translation of these terms in relation to the determination of a tenancy would seem to be "reasonably" and "unreasonably," a qualification of an act not very logical, and probably expressing the general opinion of the neighbourhood upon the moral aspect of the transaction.

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* See the explanation of this passage given at page 135.

† The subsequent commentator sees the difficulty of explaining these rules and suggests the following key to their meaning, viz :—"It is the land of another man that he has in this case let out on hire" (p. 135); that is, that when the family procure land from a third party for the use of a "deserter" they occupy the double position of tenant and landlord.

The rules laid down on this subject are as follows:—

A. If the letting be for an uncertain period, in all cases the tenant, if he determine the tenancy, leaves the erections behind him; but if the landlord determine the tenancy for any reason whatsoever, the tenant may carry away the erections with him.

B (1). If the letting be for a term certain, on the expiration of the term, the tenant must leave the erections behind him.

(2). If the tenant determine (surrender) the tenancy for reasonable cause, the value of his erections is apportioned between (having reference to) "time and labour;" but, if without reasonable cause, he must leave them behind.

(3). If the landlord, even on the last day, unreasonably determine the tenancy, the tenant may remove his erections; but if reasonably, there is a division of their value having reference to time and labour.

C. If the lands have been let for agricultural purposes, with an agreement to manure and dung them, and a period has been fixed for the determination of the tenancy, the case follows the ordinary rule; but if no period has been fixed, it shall, nevertheless, be considered as a tenancy for a fixed period—such period to be ascertained by the award of "the neighbours;" the grounds upon which it would proceed may be gathered from the commentary, at page 137. "If he has specified no particular time between them at all, the land shall belong to the 'man without' (*i.e.*, the tenant, as contrasted with the owner), until the time of his manure or dung has been taken out of it."

D. If the letting be for grazing, and "for forming erections" (with a covenant to erect buildings), the rent is "one-third of every animal on which there is increase;" but if for grazing only, every seventh cow is left for payment of the rent, but the tenant is allowed for every seven cows to pasture without further payment, in addition to every seven cows, as many sheep as were considered the equivalent of a cow.

E. If the tenant has agreed not to break up the land, and has ploughed it in violation of his agreement, the "tillage and seed" are forfeited, and he pays five "*seds*" as damages; but he can always break up the land if there was no agreement to the contrary.

F. Farm buildings found upon the land by the tenant, are, at the determination of the tenancy, to be treated as having been erected by him.[*]

Some information as to the rent of land may be obtained from an earlier passage in this tract dealing with the mode in which land-trespasses are estimated; the answer which it gives to this question is as follows:—"From its rents; if it be winter grass that is injured, two-thirds of its rent is *the fine for* the trespass; if summer grass, it; the fine, is one-third."* On this passage the gloss says:—"Two-thirds of the fair rent, *or price* that is *paid* for its 'feis'-trespass and 'airlim'-trespass is what is *paid* for its 'airlim'-trespass only, for it is four sacks that are *paid* for its 'feis'-trespass, and two sacks for its 'airlim'-trespass. Two-thirds of the rent which is *paid* for a "Tir-Cumhaile" of the best land to the end of three quarters *of a year* is what is due for 'feis'-trespass in a meadow of winter grass-land over a full fence, *i.e.*, three 'screpalls' for the three quarters; *i.e.*, two 'screpalls' for 'feis'-trespass in winter, and one 'screpall' for 'feis'-trespass in summer, and this is the third of the three 'screpalls.'†

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[*] Page 133. These equitable doctrines applied only to free contractual tenants. The unfree customary tenants were very differently treated.

"The free tributes, as I have heard,
Are they which we have above mentioned;
Of the noble tribes these are due,
Who are upon lands external [to the mensal lands].
"The unfree tribes,—a condition not oppressive,
They are in his [the king's] own lands;
Servile rent by them, it is the truth,
Is to be supplied to the palaces of the chief king.
"The tribute which is due of these
[Is] is of fire bote and wood;
[also] the renewing of his cloaks, constant the practice,
A tribute in washing and in cleaning.
"This is due of the best part of them
Run and purple of fine strength,
Red thread, white wool, I will not conceal it,
Yellow blaan and binnean.
"*From the unfree tribes of ignoble countenance,*
Who fly with the rent from the land,
Twice as much is due
As they had carried off from their fatherland."

Book of Rights," p. 223–4.

Those who are desirous to work out questions of this nature, are referred to the Tract entitled "Divisions of Land," contained in this volume, in which the measures of land are explained, and the addition or diminution in the value of land produced by the presence or absence of various qualities.

The letting of land, as explained in this tract, was carried on upon essentially mercantile and equitable principles, and was wholly unconnected with any feudal tenure.

Sir H. S. Maine has successfully shown that the feudal relation of Lord and Vassal among the Irish (so far as it was developed) rested upon the hiring out to the less wealthy classes of cattle and not of land. The benefice which the tenant received as the consideration of his services, must have been of value, and not otherwise easily attainable; and Sir H. S. Maine therefore points out that in the earlier stages of society there was a superabundance of land in proportion to the amount of cattle available for cultivation and manure, and that what the vassal desired and obtained was not land to till or pasture his cattle upon, but cattle for the purpose of utilising his otherwise valueless lands. This tract, however, exhibits to us a condition of society altogether different from that in which the 'saer' and 'daer'-stock tenancy took their rise. We find tenants paying very substantial rent under grazing leases, tenants willing to expend money in "erections," and manuring their holdings, and also that the custom of tenants taking land for agricultural and grazing purpose, had existed sufficiently long for the development of a custom determining the duration and incidents of the tenancies, and the respective rights of landlord and tenant as to future and permanent improvements. The manifest inconsistency between cattle-tenure and the rules laid down in this tract on the relation of landlord and tenant, is one of the many proofs of the social changes which must have occurred between the date at which the older Celtic customs were in force, as being in accordance with, and springing from, the daily needs of an existing society, and the period when the latter and speculative commentaries were composed; and, therefore, of the impossibility of extracting any one uniform system of jurisprudence from the mass of Brehon Law Tracts of unknown authorship and uncertain date.

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* Page 97.

† Page 97.

The contents of this tract are sufficient to put an end, once and for ever, to an assertion, which seems to have become an axiom adopted by all authors on Irish history and antiquities, and which has also gained considerable political notoriety, namely, that the ancient Irish had not attained to the idea of exclusive ownership in land, and that all the land, until the influence of English law prevailed, was considered as the joint property of the tribe or family. It is evident that the several and individual ownership of land was perfectly familiar to the Irish lawyers, and that the most advanced applications of this doctrine, such as hiring of land for limited periods and under specific covenants, and also the doctrine of servitudes, were not unknown. The question of importance upon this branch of Irish antiquities, is not whether several property in land was known to the Irish Brehons, but what was the proportion which, in the historical period, the lands held by the body of the tribe bore to those appropriated to individual and separate owners.

In an introduction, such as the present, many interesting, although incidental, statements, which are of much antiquarian value, must necessarily be left unnoticed.

None of the Brehon tracts gives more complete materials for estimating the merits and demerits of the early Irish lawyers than does the present. This may be attributed to the fact that the work in question, being probably of a late date, contained few difficulties in its construction, or references to ancient and antiquated customs. The glosses prove that the subsequent commentator felt no difficulty in understanding the original text. The subject matter was also practical in its nature, and remarkably adapted for the mode in which the Brehon school dealt with legal subjects. In despite of a style singularly wearisome and confused, it is impossible not to observe that they have worked up into a consistent form a mass of local and varying customs; that they have laid hold of important legal principles, though in an uncertain and illogical fashion; and that in the selection of their rules they have exhibited an honest and equitable spirit; on the other hand, this tract illustrates their incapacity to arrive at legal abstract propositions, and the extreme indefiniteness or mistiness of expression to which they were habituated; their prevailing error of mistaking arithmetic conclusions for definite propositions; and, lastly, their predelection to wander away from the practical application of their rules into the discussion of imaginary and fantastic cases, which were elaborated in the nature of scholastic speculations. The wisdom, for which the Brehon lawyers obtained such undeserved credit, rested upon the feeblest, not the most important, portion of their work. The vulgar of the day may have listened with amazement and admiration to discussions as to the various liabilities of hens, or the trespasses of dogs; and most of their modern translators and students, confessedly ignorant of jurisprudence, seem to have been struck with astonishment at these dialectic performances; but the test of the merit of every legal school is its success in the application of its scientific conclusions to the practical affairs of life. That the Brehon lawyers reduced the mass of customary rules into a tolerably definite form, and contrived to base their doctrines upon a foundation more or less logical, and that, although possessing no original jurisdiction, by the general equity of their decisions, they succeeded in establishing their judicial power, are merits which the cursory student of the present day, repelled by the form of their works, is perhaps too slow to admit.

VII.

BEE-JUDGMENTS.

The culture of bees in the middle ages possessed an importance which, in our modern days, it has altogether lost. Until the introduction of sugar into Western Europe at so cheap a rate as to admit of being considered an article of ordinary use, honey was largely employed as the only means of sweetening the food; and almost until our own days the consumption of wax for candle was very extensive. At whatever date the sugar-cane was first cultivated in Europe, (the western nations first became acquainted with it shortly after the date of the first crusade), the extensive use of this article in Ireland cannot have arisen before the introduction of West Indian sugar at the end of the 16th century, up to which date the cultivation of bees must have continued to be a matter of considerable importance in Ireland.

The importance of bee-culture in Ireland is proved by the well-known legend relative to their introduction into the island. This is printed in Colgan's "Acta Sanctorum," under the date of the 13th of February, the feast of St. Dominicus, or Modomnicus. As the book is not easily accessible, the passage is here transcribed:—"Narratur ibidem et aliud de ipso S. Modomnico seu Dominico miraculum vere prodigiosum, universæ patriæ continuâ veritate proficium, et perenni famâ viro sancto gloriosum. Traditur enim primus esse, qui vel apes absolute, vel

saltem certi generis apes in Hiberniam transvexerit; unde magna deinceps in illo regno, quâ ante caruit, apum et mellis abundantia remansit. Sed quia hæc periodus, ut fabulosa, a duræ cervicis hereticis irridetur, et quibusdem emunctæ naris Catholicis tanquam parum fundata minimó arrideat, placuit plures, eosque graves et vetustos, ejus producere testes. Cum S. Modomnicus, discipulus sancti Patris (S. Davidis) ad Heberniam reverteretur, et navem ad transfretandum ascenderet, ecce omnis multitudo apum terræ illius, unde exierat, consequens eum, in navi cum eo consedit. Ipse enim examinibus apum nutriendis atque servandis, diligentem curam de Patris David mandato dabat, ut indigentibus aliqua ciba suavioris oblectamenti ministraret. Discipulus vero nolens tanto beneficio fratres defraudare, iterum ad Patris presentiam rediit, sequente tamen cum turbâ apum, quæ ad alvearia propria prorexerunt. Cum secundo valefaceret fratribus, et viam suam carperet, ecce apes, ut prius, eum insequuntur; quod cum videret, iterum ad fratres revertitur; et similiter eum apes omnes concomitantur. Cum tertiâ vice hoc factum iterassent, et vir Dei nullatenus vellet eas a fratribus abducere, cum omnium fratrum benedictione et Patris David, licentiam transfretandi cum apibus accepit; apes quoque S. David benedicens, ait; terram, ad quam properatis, vestro abundet semine, nec unquam deficiat vestrum inibi semen vel germen; nostra autem civitas a vobis in perpetuum immunis, nec ultra semen vestrum in eâ exerescat. Quod usque in presens tempus completum esse cernimus; nam si aliunde in illam civitatem deferantur, nequâquam durare possunt. Hibernia autem insula, in quâ usque tunc apes vivere nequebant, postea magnâ mellis et apum fertilitate florebat. Quod enim ibi apes antea vivere nequebant, ex hoc colligitur, quod si pulveres vel lapilli de Hiberniâ inter apes aliarum terrarum projicerentur, fugientes tanquam nocivam devitabunt.

"Hujus historiæ veritatem confirmat nomen loci, quo apes illæ in Hiberniam derectæ primo collocatæ sunt, ab ipso eventu desumptum; is enim locus in regione Fingalliæ

sive comitatu Dubliniensi situs, *Lann-beachaire*, id est, Ecclesia Apiarii adpellatur, &c."*

The present tract must be considered as an exercise in which the question of the ownership of bees, their swarms, and their honey, is selected as a subject for dialectic subtility. From the passages in the preceding tract dealing with bee trespasses, and incidental passages in the present, it is evident that questions relating to the ownership of bees were, in the ordinary course of life, dealt with on much less refined principles than are here suggested; but the present tract is valuable as illustrating the modes of thought, and the logical abilities of the Irish lawyers. For the purpose of raising all possible questions as to ownership and possession, no subject could have been more ingeniously selected than that of the rights to bees and their produce; and upon this point some few observations are necessary.

The ownership of bees raises at once the question of what is meant by possession. This term is generally defined as expressing the simple notion of a physical capacity to deal with a thing as we like, to the exclusion of everybody else, and the possession continues, even without physical contact, if the physical force to retake the object can be reproduced at will.

The most remarkable illustrations of the legal conception of possession arise in the consideration of the possession of live animals. The animals which ordinarily exist in a domesticated state, such as cows and horses, hardly differ from other property. Animals, on the other hand, which are in a wild state, are only in our possession so long as they are so completely in our power that we can immediately lay hold of them. The meaning of the distinction is, that the tame animal will naturally, and of itself, remain within the possession of the owner; the wild animal will as certainly attempt to escape, and will most probably succeed in doing so.

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* The good father, who deals so hardly with thick headed heretics and sceptical Catholics, is however himself embarrassed by evidence as to the existence of bees before the date of St. Modomnicus: "Quod autem in Hiberniâ ante sanctum hunc Dominicum natum apes et mella fuerint constat ex irrefragabili testimoniâ regulæ S. Ailbei, in quâ num. 37 ita legitur, 'cum sident ad mensam, adferantur herbæ, sive radices, aquâ lotæ in mundis scatellis; item poma, cervisia, et ex alveario mellis ad latitudinem pollicis, id est, aliquod favi.' S. autem Ailbeus floruit in Hiberniâ simul cum S. Patricio, et aliquot etiam annis ante ejus adventum, sive ante annum 431. Ad auctoritates S. Ængussii et aliorum qui dicunt S. Dominicum primum fuisse, qui apes in Hiberniam attulerat, dicendum hoc esse intelligendum *de certo genere apum*: sunt enim in Hiberniâ et domesticæ et silvestres, ac diversi coloris et generis apes; præcipuarum autem ex his genus et semen videtur S. Dominicus primus advexisse." (*Vitæ Sanctorum*, p. 328, n. 7-8.) The legend therefore affords no means of fixing the date of this tract.

We do not possess the fish in a river, although the several right of fishing belongs to us; but we do possess fish when once they are placed in a receptacle, whence we can at any time take them. According to the civil law, the ownership of wild animals is founded upon the fact of capture, and exists only so far as they are actually or constructively in restraint. The Institutes are clear upon this point:—"Feræ igitur bestiæ, et volucres, et pisces, et omnia animalia, quæ mari, cælo, et terrâ nascuntur, simul atque *ab aliquo* capta fuerint, jure gentium statim illius esse incipiunt. Quod enim ante nullius est, id naturali ratione conceditur, *nec interest, feras bestias et volucres utrum in suo fundo quis capiat, an in alieno.*"*

The ownership of the *locus in quo* of the capture is here entirely excluded from the consideration of the vesting of ownership.

This law has been in England very considerably modified, by reason of the exclusive privileges generally conceded to owners of land. There is not the least difficulty in a man having possession of that of which he is not the owner, and it was consistent with the idea, which attaches to our word "close," to treat the person entitled to the possession of inclosed land as in possession of all the game which at any time happen to be there. It was, therefore, obviously correct to decide that, when a trespasser kills game upon the land in my possession, the game is mine. It is, however, very difficult to apply these principles to the case of bees; the hives, the honey in them, and the bees in the hives, are manifestly in the possession of the owner, but as to the bees who fly away or swarm out, he has no means of identifying or recapturing them, unless by close and immediate pursuit; bees which leave the hive are in the same position as wild animals which escape from their cage. In the case of wild bees, according to the Roman Law, the owner of the soil would have neither property nor possession until he physically possessed himself of their nest and honey; in this latter case, according to the general principles of English law, the possessor of the land should have, in right of such possession, a possession in the bees and their nests upon his land, and he alone, by actually securing them, should become their owner. The trespasser who secured a swarm or bees' nest upon the land of another, had, under the civil law, both property and possession; under the English law he should have the possession, but the property should vest in the owner of the land. The law as to bees is thus laid down in the Roman law:—"Apium quoque fera natura est. Itaque apes, quæ in arbore tuâ censederint, antequam a te in alveo includantur, non magis tuæ intelliguntur esse, quam volucres, quæ in arbore tuâ nidum fecerint. Ideoque si alius eas incluserit dominus eorum erit. Favos quoque si quos effecerint, eximere quilibet potest. Plane integrâ re, si prævideris ingredientem fundum tuum, poteris cum jure prohibere ne ingrediatur. Examen quoque, quod ex alveo tuo exvolaverit, eousque intelligitur esse tuum, donec in conspectu tuo est, nec difficilis persecutio ejus est, alioquin occupantis est."*

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* Inst., Lib. ii., Tit. 1, De occupatione ferarum.

Bracton, as might be expected, adopts the pâssage of the Institutes; but in quoting his authority, Blackstone adds the following observations:—"But it hath been also said that with us the only ownership in bees is *ratione soli;* and the charter of the forest, which allows every freeman to be entitled to the honey found within his own woods, affords great countenance to this doctrine, that a qualified property may be had in bees, on consideration of the property of the soil whereon they are found."†

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* Inst., Lib. ii., Tit. 1, De apibus.

† Black. Com. B. II., P. II., Chap. 1.

The mode in which the ownership of bees, their honey, and their swarms, is discussed in the present tract, and the principles applied by its authors, are a very fair test of the extent to which the Brehon Lawyers were acquainted with, and influenced by, the Civil Law, of which the rule of ownership resting on possession was one of the primary doctrines.

The rights to the produce and swarms of a hive of bees upon the farm of any proprietor are, according to the theory of the authors of the present tract, founded upon an implied contract between him and the adjoining owners of land. The holding of the owner of the bees is assumed by them to be square, or at least four sided, and each of the sides to be meared by the lands of a distant owner. The bees are supposed to enter into and gather honey on the four adjoining farms, the owners of which, by reason of the sustenance thus afforded to the bees, acquire definite rights in their increase and produce. The unpractical nature of this treatise is shown by the fact that the author believed that bees did not breed, or throw off swarms, until the third year, and it is upon this assumption that their calculations are based. They allow the hive what is styled, "three years of exemption, one year for their production, one year 'while they are few,'" and the year of their breeding, which must mean the year of their first swarming. During this period the adjoining owners have no right to the swarms, but only to a certain definite proportion of the honey produced. Four vessels of different sizes are assumed as the measure of the quantity of the honey produced, and these vessels are themselves arranged by reference to the size of cattle at different periods of their growth, (1) the milch cow vessel, which when full a man of ordinary strength could raise to his knee, (2) a "*samhaisc*" heifer vessel, which a man could raise to his navel, (3) a "colpach" heifer vessel, which a man could raise as high as his loins (or waist), and (4) a "*dairt*" heifer vessel, which a man could raise over his head; the several proportions out of these respective quantities of honey to which the adjoining owners were (or perhaps each of them was) entitled, was one-half, one-third, one-fourth, and one-fifth of an esera, or drinking cup; this was the amount fixed by the ordinary rule, but there were also contingent claims for a supply of honey in the case of an entertainment to a person of rank, or upon the occasion of sickness. The swarms of the third year must be assumed to have belonged to the owner of the hive, for upon the expiration of the three years, "the period of exemption," the four adjoining owners became each entitled to a swarm out of the hive. In the distribution of the swarms the author assumes that bees throw out three swarms in the year; the first assumed to be the best, the second swarm also of good quality, and a third inferior swarm, described as the "*meraighe*" swarm. Three only of the adjoining proprietors could get their swarm in the third year, and the fourth had to wait for the following season, when he was entitled to the first and best swarm of the year.

The lands in question were assumed to bear the same relation to each other as the divisions of the geilfine, and they were entitled to their swarms in a rotation founded upon the supposed relationship existing between these four classes. As the number of the geilfine divisions were four, and that of the lands, inclusive of the original farm, entitled to swarms, was five, the theory could not be completely carried out. The original farm, which obtained the swarm of the third year, must have been considered as the geilfine class;* the other lands were classed with reference to the proximity of the hive, and the degree to which the bees would, therefore, be supposed to resort to it for their honey; the nearest land was described as the "deirbfine" land; the next nearest must have been the "iarfine," and the third the "innfine." The remaining adjoining farm could not have had any name derived from the geilfine relation, but must have been introduced as a consequence of the assumption that the original farm was a square. That the original farm was the geilfine farm follows from the fact that the second was the deirbh-fine, as otherwise the geilfine must have been postponed to two remaining classes, or introduced after the deirbhfine; but the order of the four classes must be observed, which is a matter of importance in considering a passage in the next tract in this volume dealing with the rights to water.

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* See Gloss, page 178, line 22.

The owners of the adjoining lands were bound to set a watch "in the bright times, when the bees send out a swarm," and, if a swarm escaped through their negligence, they "shall support the bees until the end of another year," that is, the further distribution of swarms was adjourned to the next season. The case of swarms, which were not allotted to, and taken possession of by, one of the four adjoining owners, is next discussed; if a swarm, not the property of one of the adjoining owners, swarmed within the farm of the owner of the hive, no question could arise; a rule determining the ownership of a swarm could only arise, when it had left the farm of the original owner, and settled upon the lands of a third party. For the purpose of deciding this question our author refers to the analogous case of the rights to the fruit of a tree, belonging to one person, but planted in and growing out of the land of another.* Such a question is foreign to any European system of law, but it frequently arises in the Courts of Ceylon, where not only the owners of the tree are different, but even the tree and its produce are held by many persons in joint, and necessarily undivided, ownership. It is easy to understand how such a question might arise in a country such as Ceylon, where a farm used for the cultivation of large trees, such as a cocoa-nut plantation or mango-grove, has, in the course of several generations, been split up into innumerable shares among the descendants of the original proprietor, but, considering the small size and insignificant value of the fruit trees in Ireland at the date of this tract, and the abundance of land, it is difficult to believe that the case is aught but imaginary, unless we assume the existence of the letting of land for garden purposes, with a customary rent reserved out of the produce.

The general rule on this subject was that the bottom (the land) was entitled to the fruit of the top (the tree) every fourth year, and that in the other three years it was divided into two parts between the respective owners; the text then refers to the contingency of bees swarming upon such a tree, and treats the swarm as if it were portion of the natural produce of the tree itself. The general rule as to such swarms of unclaimed bees is stated in the commentary thus:—"*It is* to the land out of which it (the tree) grows originally, that its produce belongs every fourth year; until (then ?) the produce of the bees is divided into two *parts* to the end of three years between the owner of the bottom of the tree and the owner of the top, and its produce every fourth year is due to the owner of the bottom, in the same way as the owner of the top gets the produce of the tree every fourth year, so the owner of the bottom of the trees obtains the produce of the bees every fourth year. This is when the original owner of the bees is not known."* This rule refers to the division of the ownership of a stray swarm between the owners of the land and of the tree. The rules as to swarms, the ownership of which was either admitted or asserted, is stated subsequently in the commentary, and it is to be remarked that in the decision of such questions, two additional elements are introduced, the greater or less certainty of the ownership of the swarm, and the rank of the owner of the tree.

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* Page 167.

† Page 169.

(1.) "*As to* known bees in the trunk of the tree of a noble 'nemedh,' two-thirds *of their produce are due* to the owner of the tree, and one-third to the owner of the bees, to the end of three years, and they (*the bees*) are the property of the owner of the tree from that out.

(2.) "*As to* doubtful bees in the trunk of the tree of a noble 'nemedh,' three-quarters *of their produce are due* to the owner of the tree, and one-fourth to the *doubtful* owner of the bees, to the end of three years, and they belong to the owner of the tree from that out.

(3.) "*As to* the known bees in the top of the tree of a noble 'nemedh,' one-third *of their produce is due* to the owner of the tree, and two-thirds to the owner of the bees, to the end of a year, and they belong *exclusively* to the original owner of the bees from that out.

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* P. 171. The punctuation of this passage has been altered from that in the text.

(4.) "*As to* doubtful bees in the top of the tree of a noble 'nemedh,' one-half *of their produce is due* to the owner of the tree, and one half to the owner of the bees, to the end of a year, and they belong to the owner of the bees from that out; or, *according to others*, it is to the owner of the tree they belong.*

(5.) "*As to* known bees in the trunk of the tree of an humble 'nemedh,' one-half *of their produce is due* to the owner of the tree, and one-half to the owner of the bees, to the end of three years, and they belong to the owner of the tree from that out.

(6.) "*As to* doubtful bees in the trunk of the tree of an humble 'nemedh,' one-half their produce and one-eighth *go* to the owner of the tree, and one-half except, one-eighth to the owner of the bees, to the end of three years, and they are the property of the owner of the tree from that out."†

The two further rules which should correspond to rules 3 and 4, are omitted in this part of the commentary, but in a subsequent passage the further rule occurs:‡—"*As to* known bees in the top of the tree of an humble 'nemedh,' the fourth portion *of their produce* belongs to the owner of the tree, and three-fourths to the original owner of the bees, to the end of a year, and they are the property of the owner of the bees from that out."‡

There is a passage in the original text which puts the rights of the "nemedh"-person upon an entirely different footing, and classes a swarm of bees as one of the seven fugitives not entitled to the protection of his house, and therefore in this case the "nemedh"-person, being obliged to yield up the fugitives to the pursuing owner, receives but one-third of one year's produce as a gratuity. This passage is quite inconsistent with the rest of the text, and the detailed rules of the commentary, and proves how much of the regulations laid down in this tract are purely dialectic, and what different conclusions may be arrived at by shifting the point of view from which the question is regarded.

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* This rule is variously given in page 189.

† Page 183. ‡ Page 189.

The questions are then discussed which deal with the conflicting rights of the man who finds a stray swarm, and the owner of the land on which the swarm is found; these may be summarised as follows:—

(*a*.) If the swarm is found in a green, that is, the open grassland immediately surrounding an house, one-fourth of one year's produce to the finder, and three-fourths to the owner of the house.

(*b*.) If in a tree in a green, if the bees have been there a year, one-half to the finder, and one-half to the owner of the house.

(*c*.) If in the land between the green and the waste, one-third to the finder, and two-thirds to the owner of the land.

(*d*.) If in waste unappropriated land (land not separate private property), the finder takes all, subject to a claim by the chief, if it be public land of a lay-tribe, or by the church, if it be public land of a cleric-tribe to "one-third of every third."

The position of the "*daer*," and "*saer*"-tenants, and their personal connection with a superior, is marked by the rule that "*daer*"-tenants of a church give over to the church one-third of their finding; "*daer*"-tenants of a chief give to their chief one-third, except in the case of bees found in the waste land, and in that case one-ninth; the "*saer*"-tenant of the church gives over one-fourth, except in the case of bees found in the waste land, and in this case one-twelfth; the "*saer*"-tenant of a chief gives no portion to the chief. Two other subjects are discussed in the tract, but neither of them are of such importance as to deserve a special analysis. The first is with reference to injuries inflicted by bees. The mode in which this question is considered is much less detailed than in the text and commentary of the Book of Aicill, and the matter is referred to the judgement passed upon the occasion of the bleeding of Congal Caech; the passage referred to in the original text is as follows:—"It happened on a certain shall find a swarm of wild bees is to have a penny or the wax; and the owner of the land is to have the swarm."*

No clearer example can be desired of the essential difference between the Celtic mode of thought, apparently clear, yet really indefinite, when dealing with a practical question, and the hard and logical habits of thought of the Norman lawyers (who were equally ignorant of the civil law), than the following enactment of the Assise of Jerusalem upon the subject of bees:—"Sel avien che per aventura le ape che sonno nelle mie casse vanno fora, et restano in altrui casse de voluntà di esse, la rason vol ch'io non habbia action alcuna de andar a prenderle per forza de la casse d'altri; per che sonno ucelli salvatichi, per che tosto che le usciranno da le mie casse, io no hò piu signoria in quelle, se non tornano iterum ne le mie casse, et sonno mie mentre sonno in ditte mie casse, et non piu; la rason de simil ucelli e che vanno ogni zorno fora per viver de li beni de fora, et però quelli che li hanno chiusi in le sue casse sono sui patroni, mentre voranno stare, ò ritornare; ma se alcun vien al mio loco dove tegno le ape, et porta una cassa onta di dentro di qualche odore, per el quale intrano dentro tutte, o parte de le mie ape, et le porta via, la rason commanda che quel che farà questo sia tenuto di tornar indrieto le mie ape con tutto el frutto che haverà fatto, et poi esser condanato personalmente secondo che li judici stimaranno che valevan quelle ape, et che potevan lavorar per quel anno, et restituir altro tanto a la justitia de jure; et similimente se le mie ape fanno miel in altrui arbore, la rason judica ch'io non habbia alcuna rason, nè alcun altro del qual fosseno le ape, ma quello deve esser del patron del arbore; et questo è dì justitia, perche nessun non puo segnar le sue ape che non somegliono à le altre, et cosi come le viveno de li fiori, et beni d'altrui, cosi deve esser il miel di colui, nell' arbor, o terreni del quale voluntariamente vanno a farlo; parimente se le mie ape a far el suo miel a qualche arbore salvatico che non ha patron, la rason vole che cadauno possa prender di quel miel senza errare verso alcuno, perche è loco commune, dal quale de rason ogni homo puo pigliar, etiam le ape, et portarle, dove li piace senza errare, de jure, et per l'assisa de Hierusalem."*

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* Ancient Laws of Wales, Vol. II., p. 289.

It is impossible to believe that the author or authors of this tract and commentary (which has been manifestly altered from time to time, amended, and enlarged), had any acquaintance with the civil law, and it must be admitted that, in its present condition, it is a remarkable and most unfavourable specimen of the manner in which the Brehon teachers approved and discussed legal questions.

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* Assise of Jerusalem, see 215. What is most remarkable in this section of the Assize of Jerusalem is the distinct manner in which actual possession is laid down as the only ground for the ownership of bees, and the clear argument upon which it is founded—viz., that the ownership consists in simply retaining them in actual possession, and is not founded upon any expenditure of labour and food in their maintenance. The doctrine of constructive possession which appears in the section of the Institutes is here disregarded, and thereby the difficulty is avoided which arises from the limitations of the constructive possession introduced into the Roman text, "Donec in conspectu est, nec difficilis persecutio ejus est." Also, when no actual reduction into possession has taken place, it is presumed to have been made by the owner of the soil, as no one else could enter upon his lands for the purpose; and the case of the bees being fraudulently induced to escape from the possession of their owner is anticipated and provided for. How difficult it was to form clear ideas as to this matter appears for other attempts at legislation upon this subject. Thus, in the laws of the Wisegoths was contained the following section:—

"Si quis apes in silvâ suâ, aut in rupibus, vel in saxo, aut in arboribus invenerit, faciat tres decurias, quæ vocantur caracteres; unde potius non per unum caracterem fraus nascatur. Et si quis contra hoc fecerit, atque alienum signatum invenerit et irruperit, duplum restituat illi cui fraus illata est, et præterea xx flagella suscipiat."—"*Leges Wisigothorum*," Lib. viii., sit. vi., 1.

The ownership is here founded upon the discovery simply of the swarm, and no reduction into actual possession was required; and the question whether the person who so found them was rightfully or not upon the place where the bees had swarmed is altogether overlooked.

In the present tract the Brehon lawyer has seen the two distinct grounds upon which the ownership might be founded, but has worked out logically neither train of ideas, and concluded by compromising both, with reference to a supposed analogous case, and in an arithmetical manner.

VIII.

Right of Water.

The subjects discussed in this treatise are neither riparian ownership of running water, nor servitudes connected with the use of water, but the right to conduct water courses for the construction of mills, and the right of the adjoining owners to use such mills and to draw water from the mill course and pond. The Brehon lawyers permitted anyone desirous of constructing a mill to bring the necessary supply of water through the lands of his neighbours, and to acquire by compulsory purchase the ground necessary for the purpose upon the terms of paying a fixed legal compensation for the same. "Every co-tenant is bound to permit the other co-tenants to conduct drawn water across his border;"* and "this is the second instance in the 'Berla' speech where the law commands a person to sell his land though he should not like to do so."† The process in question was a very archaic anticipation of the modern 'Land Clauses Consolidation Act,' specifying the terms upon which the necessary land may be purchased, the amount to be paid, the matters to be taken into consideration upon the occasion of the purchase, and the rights arising by implication of law in the work when completed. Certain lands, from their nature, could not be compulsorily acquired for the purpose of the erection of a mill, viz., the 'nemed'-land of a church, or (2) of a dun, or (3) the circuit of a fair-green. The author understood that the right of acquiring land for a work of public utility must be restricted by rules which would prevent a disproportionate violation of private right, or an excessive inconvenience to the public itself. The amount of the purchase-money for the land to be taken was not, as may be easily anticipated, the subject of valuation, but was fixed in every case by an express rule, and the price was not measured by reference to the extent taken, but the fact of the compulsory taking was to be compensated for as a quasi-tort. Thus a '*sed*' of ten 'screpalls' was payable for every farm through which the water course was carried; some variation in the price was, however, permitted, having reference to the nature and value of the land itself: "If it be arable land, though it (the water) should pass through only half a step of it, it shall be paid for after this manner (that is, the price shall be one "*sed*"); but if it be unprofitable land, half a "*sed*" is its price, otherwise it is a day *at the mill* for every land over which it passes that is due for it."*

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* Page 211.

† Page 213.

Three classes of land are enumerated for which no compensation was payable, either on the ground that the owner of the land was benefited, not injured, by the construction of the water course, or because it was evident that he incurred no damage whatsoever; these are (1), "lands on which a mill stands, so that it yields produce," which is explained in the gloss as meaning the land used for the construction of the mill pond, which afforded to the owner of the land a constant and abundant supply of water, or, according to another commentator, of fish; (2), a house and close previously without a supply of water, and which, therefore, was benefited by the mill-stream being constructed close to it; and (3), a trench usually dry, and used only to carry off the winter drainage, the owner of which was obliged to permit its use without compensation.† It would have been fortunate for the English public if the equitable considerations which in the Brehon law deprived the owners of land taken for public works of any compensation, if the construction of these works resulted in a profit, not a loss, to the owners of the land required, had been taken into consideration by modern legislators. Whatever bargain or arrangement had been made by any owner of land in connexion with the construction of a mill, a dam, or a bridge, became absolutely binding if acquiesced in during the lives of two subsequent owners:‡ "If they have been so acknowledged, it is right that they should remain so for ever, gratis or for payment, according to the Brehon."§ This passage very fully expresses the archaic idea of ownership; the owner was owner merely for the term of his own life, as between himself and his family he was in some sort only a tenant for life, whose contract as to the subject matter was not binding upon his successor. This idea of ownership is quite foreign to the English law, but is exactly what existed in the case of "substitutions" in the old French law, or in that of a Scotch tailzie. The English law has superadded to the power of dealing with property which is incidental to ownership, the conception of absolute ownership being perpetual in its duration, a fallacy which has exercised immense influence upon our real property law, and is the basis of our whole system of conveyancing. This rule also is an instance of the application of the principle of "limitation" of actions, which within only recent times has been recognized as of paramount importance in our jurisprudence. The period of limitation fixed by this rule is during the life of the father and grandfather of the person affected by it, and as the normal period of limitation in the Brehon laws is the space of three generations, a subject subsequently discussed, it may be reasonably concluded that the party who entered into the original agreement was the great grandfather of the person whose right to object to the transaction was barred, and that the father and grandfather had acquiesced in the acts of their predecessor. In a very obscure passage of the commentary we have an express statement that the period of limitation was such as we have mentioned, and the assertion that the period of limitation did not run as against a minor: "If they were recognized during the lives of three persons, they are lawful from that forth. But if the son of the third man did not acknowledge them jointly with his father, he being an infant, and in case he was so, they shall not be lawful, until he shall have acknowledged them, for the same period after he has come to the age of reason."* The only explanation which can be suggested for this passage is, that the acquiescence during the three continuous lives was not the simple acquiescence of the successive owners whose lives are taken into account in the computation of the time, but the acquiescence of their families during their successive lives; thus, if the owner (so called) had a son, both father and son must acquiesce during the life of the former, and the son, who was an infant at his father's death, having been unable during his infancy to do any act to bind his rights, was entitled after his father's death, and for the same period as he had lived as a minor during his father's life, to elect whether he would or would not confirm the acts of his father; and if he allowed this space of time to elapse without insisting that, by reason of his infancy, there had not been any legal acquiescence during his father's life, he was estopped from relying upon the fact of his infancy, and the imperfect acquiescence during the father's life was validated by reason of the retrospective effect of the son's subsequent acquiescence.

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* Page 213. † Page 215 ‡ Page 211. § Page 213.

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* Page 213.

If the owners of the lands required for the construction of the race or pond preferred to take certain rights in connexion with the watercourse and the mill in lieu of pecuniary compensation, they were at liberty to do so.

Mr. O'Donovan has stated his opinion on this subject in his note, which is appended to page 220 of the text, but he does not appear to have realized the difficulty of applying the first paragraph of the text to the right to grind corn at the mill, or to have attempted to reconcile this passage with the very explicit and detailed statements of the commentator in page 217. The tract commences thus: "There is equal right to the water drawn through the tribe lands due to the lands out of which it is drawn."* What is the particular right dealt with in this passage? Does it refer to the right of grinding corn in the mill, or to some other right incident to the water course? and is the mode in which this right is to be exercised, or are the persons by whom it is to be exercised, compatible with such a supposition? The rights of the adjoining owners are regulated in reference to the geilfine system, and the lands are divided into four classes corresponding to the four geilfine divisions. Mr. O'Donovan describes this theoretical division of the land to have been as follows:—

* Page 209.

The land in which the mill-race was first turned off, "the course," was geilfine land; the land on both sides of the mill-race, down to the mill-pond, was deirbhfine land; the land surrounding the pond was iarfine land; and the land on both sides of the race, from the pond to the land, was the innfine land. It is clear in the text that the innfine-land was the pond itself in which the water was contained, and that the deirbfine land was somewhere between the source and the pond, and it is not certain that the author of the passage in the original text contemplated any water-course running from the pond down to the mill. It is quite true that the author of the commentary at page 217, divides the lands into four classes corresponding with Mr. O'Donovan's; but the question may be asked whether he is dealing with the same subject matter as the author of the first paragraph of the original text. The authors of the glosses evidently did not understand the distribution of the lands contemplated in the original texts; one gloss describes the deirbhfine land as the pond, and another apparently describes the pond as the iarfine land. But the patent objection to the first paragraph being considered as describing the rights of adjoining owners of land to grind their corn at the mill, is, that thereby there would be no surplus time left at the disposal of the owner of the mill house, whose rights could not well be excluded from consideration. The computation of time in this tract has reference to the working days of the week, and Sunday is kept out of the account as an holiday; if, therefore, each first day (*i. e.*, Monday) belong to the land out of which the water is drawn, and three days are allotted to the pond, and one day to each of the remaining classes, viz., the *deirbhfine* and *iarfine* lands, the entire week would be divisible among the owners of the adjoining lands exclusively. This objection does not apply to the scheme regulating the mode of working such a mill contained in the commentary.* According to this rule the right to work the mill is divisible between six classes: (1) the well, (2) the owners of land from the well to the pond, (3) the pond, (4) the owners of land from the pond down, (5) the artizans, and (6) the attendance; 'one-third goes to the land, and the things which belong to it, and one-third to the science of the artizans, and one-third to food and rude labour." The two latter classes, the artizans and attendance, represent the proportion allotted to the owners of the mill, for capital invested and current expenditure; the rotation is arranged with reference to a period of three weeks, containing eighteen working days, distributed thus:—

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* Page 217.

	1st Week.	2nd Week.	3rd Week.
The Well, . .	Monday.	—	—
Well to Pond, .	—	Tuesday.	—
Pond, . . .	Tuesday.	Monday.	Monday.
Pond down, . .	—	—	Tuesday.
Artizans, . .	Wednesday and Thursday.	Wednesday and Thursday.	Wednesday and Thursday.
Attendance, .	Friday and Saturday.	Friday and Saturday.	Friday and Saturday.

It is clear that if the author of the first paragraph of the tract had considered the adjoining lands to have been divided upon this system, the pond should have been described, not as the *innfine*, but as the *iarfine* lands; and in one of the glosses we, in fact, find this correction made; if the pond was the *iarfine* lands, the two intermediate classes, viz.:—the *deirbhfine* and the *iarfine* lands must have been placed between the source of the water and the pond; and, as before remarked, we find in the first passage no allusion to any race from the pond to the mill. It may be suggested that the first passage refers, not to the right to use the mill, but to draw water from the mill-course and pond—a privilege perhaps not of much value in Ireland, but one which the Brehon lawyers, to whom the rule "*De minimis non curat lex*," was unknown, would not disregard in their calculations.

The present tract concludes with the following remarkable passage:—"There are seven ditches, according to the Feini, the injuries done by which are not paid for (though such should be done by them), for every person shall be corrected (restrained?) by his security, unless they have been made free; the ditch of a 'dun'-fort, the ditch of a 'cill'-church, the ditch of a fair green, the ditch of a mill-race, the embankment of a mill-pond, the ditch of a turf bog (the hole caused by the cutting of turf), a ditch which is at a bridge; for, from this out (*i.e.*, with the exception of these specified cases), each one pays for the injury sued for, or caused by each ditch which one has made in his land, to him who has sustained the injury, for every surety shall be sued unless these exceptions have been established as regards water. It was thus that the common right to conducting water was established by the Feini."*

This passage states that ditches (or constructions of any kind) are divisible into two classes, viz.; those the owners of which are responsible for the accidents arising from their construction, and those the owners of which are exempt from damages in that respect; the reason why mill-courses fall within the latter and the former class, is stated in the gloss, viz.:—"They are erections, concerning the construction of which authors have laid down no defined mode of construction." All the ditches referred to are made in the exercise of legal right; and all, except the cutting of the bog, may be considered in some degree as public works; the cutting in the bog would be an exercise of a right in common land in the ordinary manner. Now the very principle of damages in the English law, which would be applicable to such cases, would be, that a person who had constructed any work of such a nature in the exercise of a legal right, and with due care and precaution, would not be liable for damages in respect of an injury which occurred to a third party, caused by the existence of the work in question, or the legitimate mode of using it. This is the point which was applied to Railway Companies, in the case of the King *v.* Pease, 4 B & Ad. 30; the question in such case is always one of negligence in the construction or using of the work. This appears to the point taken by the author of the gloss, viz.:—that there was no established rule regulating the mode in which the mill-course should be constructed—and that the construction being in itself legal, it was impossible to consider the mode of construction a ground for damages. The obvious mode of deciding the question by an issue of fact as to whether the construction in question was or was not properly constructed, and with all ordinary care, was a course which would not recommend itself to the Brehon lawyer accustomed to the use of distinct arithmetical formulæ. This passage is interesting, as illustrating how the Brehon law was taught; in any modern system the author would have laid down an abstract proposition, illustrated it by particular examples, and fortified it by previous decisions; and, thus having established his general proposition, would have applied it to the facts of the case, then the subject of consideration. The Brehon lawyer must have had in his mind, however vaguely, some abstract rule with reference to which he classified a number of individual cases; having made his classification, he then instructed his pupils by specifying the result of the analysis, without communicating the principle upon which it proceeded. It is this mode of dealing with legal questions, which, in the case of the Brehon law, creates such difficulty and obscurity. Their works are neither simple statements of antecedent customs, nor a teaching by deductions from expressed general principles; the logical process may be described as a series of enthymemes with the major premiss suppressed; but a careful examination of many of these passages will disclose the general rule upon which the author proceeded. The form of their works must have been determined by their original function, as the professional witnesses of unwritten custom; the decisions pronounced by them in cases of the first instance, would naturally fall within Sir H. S. Maine's definition of Themistes, clearly illustrated in the following passage:—"It is certain that in the infancy of mankind, no act of legislature, nor even a distinct author of law, is contemplated or conceived of. Law has scarcely reached the footing of a custom—it is rather a habit. It is, to use the French phrase, 'in the air.' The only authoritative statement of right and wrong, is a judicial decision after the facts—not one pre-supposing a law which has been violated, but one which is breathed for the first time by a higher power into the judge's mind at the moment of adjudication."

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* Page 221.

The present tract is a curious instance of this mode of dealing with novel questions. Water mills were introduced into Ireland by Cormac Mac Art, probably in the course of the third century, and the rules referable to them could not have grown up until the use of these constructions had become common, and questions had arisen upon the subject. There was therefore no antecedent custom; nor was there any sovereign power capable of establishing a law, in the proper sense of the term, upon the subject. The Brehon Judge must have proceeded in such cases precisely as the English Common Law Judges in a similar position; they referred to a supposed antecedent custom their decisions upon the novel cases arising before them, and by a series of decisions upon particular instances, ultimately created the materials from which general legal principles might be deduced. In the case of the Brehon Judges the form of their decisions continued unaltered, which the writers of their law tracts embarrassed themselves by adopting. The scholastic logic was known to, and taught in the schools of the Irish ecclesiastics in the middle ages, but in the Brehon law tracts there is not a trace of its influence. This fact may be attributed either to the natural opposition of the representatives of the old customary law to the schools in which the Canon or Civil Law would be considered as authoritative, or to the mode of teaching natural to an hereditary class of lawyers, influenced by traditional forms, and desirous to retain as a monopoly the secrets of their law.

IX.

PRECINCTS.

The open space around a dwelling, which was assumed to be within the peace of the owner of the house, has been referred to in the Book of Aicill, published in the preceding volume, with reference to the compensation payable by third parties for acts of violence committed within it.* The author of the present tract proposes to state the extent of the precinct with reference to every grade, both lay and clerical, and to discuss certain questions connected with the subject. The determination of the precise extent of each precinct he attributes to the decisions of a convention of the bishops, "ollamhs," chiefs, poets, sages, and seniors of Ireland, held at Sliath Fuaid in Magh Bregh, and alleges that the extent of the precinct fixed for each class, for the violation of which fines should be paid to the owner of the house, was written by the men of Erin in the great "*Cas*" of the ancients. The unit in this calculation is the extent of the precinct of the lowest grade, entitled to enjoy the privilege of sanctuary, that is the "*bo-aire*" chief, which was fixed in simple and archaic fashion. Let him be placed at the door of his house in his customary seat, with a spear, twelve hands breadth long, from the iron head to the horn ferule; so far as he could cast it did his precinct extend. This measurement of the limit of the precinct to which the owner of the house was entitled, rests upon the same principle of the well-known rule of the "maritime league" in international law, viz., that external combatants must suspend hostilities when their further prosecution would endanger a neutral in his usual and legal place of residence. The ordinary spear cast having been assumed as an unit it is doubled for the next higher grade in social rank, and so proceeds by geometric progression through the five remaining ranks to the King, whose precinct is consequently a circle with a radius of sixty-four spear casts.

A King of King, *i.e.*, either a provincial, or the national King, had, by virtue of his rank, a precinct, independent of measurement, inclusive of the entire plain, or meadow, within which his dwelling stood; and the same privilege was conceded to the Archbishop of Armagh, as "Coarb" of St. Patrick. A different method was adopted in fixing the extent of the precincts of the dwellings of ecclesiastics; in this case the calculation is based upon the extent of the greatest, and not the smallest, precinct; to a church, "in which were the three grades of bishop, professor, and archinnech," approximately translated in the text, a "cathedral." belonged a precinct with a radius of two thousand paces; to a bishop, a saint, or a hermit, one of one thousand paces, "if it be in a plain," that is, inclusive of all the open surrounding space to the maximum extent of one thousand paces; the precincts of the lower ecclesiastics diminished in the same ratio as their respective "honor-prices." The right of protection was one accorded to the owner of the house for his own benefit and security; it was not a right of the fugitive who required protection; it might, therefore, be waived by the owner of the house, who was not bound to concede its benefit to a stranger, and if it were violated the result would be that damages should be paid to the owner of the house solely. The position of the two extern hostile parties was not altered by the fact that the fugitive succeeded in getting within the precinct of a third party, and therefore the owner of a precinct, as the condition of the inviolability of his own household, was bound to secure to the pursuer the legal redress to which he was entitled; this appears in the following passage, "What is protection as to reciprocal rights? because there is no protection without offer of law."* The right to the benefit of the rule as to the precinct was therefore suspended if the owner of the house refused to give to the pursuer the necessary guarantee. The protection afforded by the precinct naturally extended not only to the fugitive, but also to the property brought by him within the limit. Damages for the violation of the precinct did not arise solely from the fact of violation, but notice that the place in which a person was seized, or property recaptured, was within the limits of the precinct of a third party, was requisite to make the act otherwise justifiable a wrong as against the owner of the house; for among the cases of exemption is placed that of "ignorance," which is defined (with reference to some known case) as the seizure of cattle under protection, in the belief that they were not under protection; which must mean, in ignorance of the fact that they were within a precinct.*

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* Ante Vol. III., Page 119–145.

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* Page 233.

The two other cases of what is called "exemption," that is, non-liability to damages for actual violation of the protection, are unlawful protection, and forcible violation; the former exception is free from difficulty, and applies to the case of the owner of the house refusing to fulfil his reciprocal duty of guaranteeing to the pursuer his legal rights; the latter is, however, not so clear; "forcible violation" of the protection of a precinct is the very act for which damages are payable, and, if this expression be referred to the pursuer, it would follow that the most aggravated cases would be exceptions to the rule. The only other to whom the "forcible violation" could be referred would be the fugitive himself, and it is suggested that the case contemplated is that of a fugitive refused protection, and himself forcibly entering the precinct. The construction put upon this last mentioned passage is strengthened by the fact that the succeeding paragraph assumes that the protection to be legal must be assented to by the owner of the house, or some one on his behalf.†

The assent to the entry of a fugitive within the limits of the precinct must have been given by the head of the household himself, or by some member of the family as his agent, and on his behalf. Hence his first wife and his unemancipated son,‡ or even an emancipated son or any person of the family could receive a fugitive. A very clear distinction as between express and implied agency is drawn in the text with regard to the reception of fugitives by persons other than the head of the house. If the protection is accorded to the fugitive by any member of the family by the express direction of the head of the household, full honor-price was payable for its violation; but if there were no express direction given for the reception of the fugitive, and a member of the family acting on behalf of the head of the household received him within the protection of the precinct, the amount of the honor-price payable for the violation of the protection was diminished, in accordance with the more or less intimate relation of the head of the house to the person who had assumed to act on his behalf. The person, who, on behalf of the head of the household, as his agent either express or implied, received a fugitive, was never entitled personally to any damages for the violation of that protection, which he could not have given in individual capacity. This implied agency extended only to those members of the household "who had no expectation of separation from the head of the house,"* thus a mere armed retainer or mercenary soldier temporarily resident in the house could not act on behalf of the head, nor could a person himself a fugitive under protection; as to these cases then is cited in the text the old rule: "Sanctuary of sanctuary; one pilgrim does not protect another; no one is entitled to fines for the violation *of the protection* of his hired soldiers." It would be attributing perhaps too much ingenuity to the Brehon Lawyers to believe that they worked out these rules by reference to the doctrine of implied agency; it would be more safe to conjecture that at an early period a fugitive might have been received into the protection of the household by any of its members, and subsequently their action was explained as being as that of implied agents of the head of the household.

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* Page 229.

† Page 229.

‡ Page 231, but see note on this passage.

The amount of damages payable in respect of a violation was varied with reference to the elements which entered into all such calculations, such as the extent of the violence used towards the fugitive, and the ranks of the fugitive and of the person whose protection was violated.

The number of the persons who could at the one time be received into sanctuary was necessarily limited; the pursuer could not be expected to yield to the claim to protect fugitives, unless the owner of the precinct could himself restrain them from departing, as otherwise his guarantee that justice should be done would be nugatory. The number of fugitives who could at one time be received into protection was therefore limited to twenty-seven.

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* Page 231, but see note on this passage.

The church claimed to exercise a more extended protection than was accorded to the laity : " It is safe for her to protect before the terms (*specified times*) without offer of law in either of them, and to protect after the terms with offer of law, and to protect against death and unjust fines always."*

The rules with regard to the precinct, and the protection thrown over fugitives by the head of the household, would seem to be a survival of earlier ideas modified to meet the circumstances of a denser population, and the claims of the ministers of the Christian religion. There must have been originally some distinct and symbolical act by which the fugitive was removed into the protection of the house ; if this was connected with the ancient pagan religion, it may have fallen into disuse after the introduction of Christianity. The original position of the fugitive is thus described by Mr. Hearn : " Another division of the same class (the dependents of the family) consisted of refugees, especially refugees for homicide. It seems to have been an ancient belief that the stain of human blood, however incurred, required purification. There was also the danger of the blood feud from the kinsmen of the deceased. The homicide, therefore, generally fled from his home, and sought a person who could purify him from his sin, and also protect him from the avenger of blood. If such a suppliant applied to the House Father in the proper form, as recognized by the House Father's worship, and addressed him by the proper adjuration, such a request could not be refused. The stranger had brought himself within the protection of the House Spirits, and they would resent any wrong done to their suppliant. Away from his hearth indeed, and without the appropriate ceremonial, the House Father might at his pleasure grant or refuse the mercy to any person who sued for it. But the suppliant in the technical sense of the word, the ἱκέτης or the man who came to the holy hearth was a different case. Him the House Father was bound to receive, and when he had received him, the stranger was initiated, and became, at least for the time, a member of the household."*

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* Page 235.

X.

Divisions of Lands.

This tract is an attempt to fix arithmetically the value of a cumhal of land (tir cumaile), having reference to the quality and advantages of the land in question. Arable land is divided into three classes—(1) first-class arable land, (2) hilly arable land, (3) labour-requiring arable land. A cumhal of the first class is valued at twenty-four milch cows, of the second class at twenty milch cows, and of the third-class at sixteen milch cows. Weak land, which may be understood to mean land fit only for grazing, is also divided into three classes, viz.,—coarse land, weak land, and deep land, a cumhal of which respectively is valued at twelve dry cows, twelve (*q.* ten) dry cows, and eight dry cows. The tract then considers the extent to which the value of any cumhal of land is increased by what were considered as its accidental and extrinsic advantages, such as the existence of a wood or mine upon the land, its fitness for the erection of a mill, or its facility of approach, or nearness to a highway, Each of these accidents is taken into account to increase the value in a certain ratio, and the value of any given cumhal of land is to be estimated, having reference to both the quality of the land and its accidental advantages.

Upon the first view it might appear that the whole tract is but a piece of solemn arithmetical trifling, such as the Brehon lawyers loved to exercise their ingenuity upon; but a little consideration will prove that there is a practical basis for this apparently fantastic estimate. That the estimate is not of the character of a modern tenement valuation is obvious, for it applies to a state of society in which taxation was unknown, and not even its author could have anticipated that the price of land, when actually sold, could be regulated in this manner. To understand the meaning of this tract, it must not be forgotten that in ancient Ireland there was no currency or established standard of value, and that all mercantile transactions were carried on upon the footing of simple barter. In such a condition of the market how are the relative prices of articles quoted? The existence of a fixed standard of value means that the value of all other articles is estimated by the amount of them which can be purchased by fixed quantities of some one selected commodity. Any commodity may be selected as the normal standard, our habit of selecting gold or silver simply arising from the fact of their indestructible nature, and the assumption that their value in exchange is invariable.

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* The Aryan Household, p. 109. The term "*derggfine*," which occurs in "The Divisions of the Tribe of a Territory," (page 285, l. 15), has been previously explained in accordance with the gloss upon that passage; but the existence of a class of members of a family, deprived of their land as a consequence of homicide, is so unusual a fact that it might be plausibly suggested that the "derggfine" included originally the ἱκεται admitted into the family, and when the original rights connected with their admission had become obsolete, and the custom, which must have been a late one, of forfeiting (to use this very inaccurate phrase), the lands of a wrongdoer had been introduced, the term (derggfine) was applied in the way in which the authors of the glosses understood it to be used.

When we speak of the penny loaf being larger or smaller, we mean that the amount of bread which a penny will purchase has increased or has diminished. When we state that a pound of tea costs two shillings or five shillings, we mean that the amount of silver which is equivalent in exchange to one pound of tea is greater or less. Both statements merely express the ratio which the value of a commodity fluctuating in the market bears to the value of ascertained quantities of a commodity assumed to be fixed in value. If, however, there exists no fixed standard of value, how is the price of any commodity to be stated? This difficulty was met by the ancient Irish, as by every other people under similar circumstances, in the following manner:—the actual amount of any article brought to market, or handed over to another person, is fixed by a certain unit which depends upon the mode in which the article is dealt in. Slaves and cattle would be counted by the head; metal by the usual weight of the bars; and farm produce by the form in which it was offered for sale. Thus at the present day we deal in so many head of cattle, barrels of potatoes, or sacks of corn. Here the difficulty arises how to express the ratio which the value of any number of cattle bears to any given number of sacks of corn. For this purpose an abstract measure of value is invented, which is roughly estimated to be represented by a certain amount of each of the articles ordinarily brought to sale, and a given quantity of each article having been fixed as representing this value in exchange, the several quantities of the different articles are supposed to be equal in value to each other in the normal condition of the market. As in the present day, in remote country districts, a man who pays for the grazing of so many cows may take it out in the grazing of sheep or geese, each cow being represented by a customary number of the smaller animals, so in ancient times the value of a cow would be considered as equivalent, for the purpose of exchange under ordinary circumstances, to so many sheep, geese, &c.

It has been frequently remarked that in primitive societies the rule of supply and demand has almost no existence, and that the same price will continue to be paid for the same article during very long periods of time, and without regard to what are called mercantile considerations. As long as this mode of dealing is applied to articles which can be sold by measure and weight, and are of the same average quality, there is no difficulty in working the system; but as soon as an attempt is made to apply it to land, the difficulties involved become apparent. Land can only be sold by reference to its superficial extent, but the qualities of any two pieces of land of the same acreage are very different, and therefore their value in exchange cannot be the same. How, therefore, can the value of any piece of land be expressed with reference to the imaginary standard of value to which all other articles are referred? This is the question which the author of this tract attempts to solve, viz.:—What is the par of exchange of land in the market with reference to the other subjects of exchange? That he should fail in doing so in any practical manner was inevitable, for the question was, in its essence, insoluble; but he adopts the only reasonable mode of approaching the question, and handles the matter with considerable acuteness. He assumes as the base of his calculation a fixed measure of land, which he defines as the land-cumhal; he then divides land with reference to fertility or fitness for pasturage, and brings out the result in cattle; he then considers the accidental qualities of any particular land, and treats them as raising the value in a certain ratio; the value of any land in exchange would thus be represented by a certain number of cumhals in cattle, irrespective of the actual acreage of the land.

The basis of the whole calculation rests upon the superficial extent of a cumhal of land; and the commentator naturally appends a table of the superficial measurements upon which his calculation is founded. "How is a tir-cumaile measured?" By grains; three grains in a proper inch; six inches in the hand; and two hands in a foot; six feet in a pace; six paces in an "intritt" measure; six "intritts" in a "lait" measure; six "laits" in a "forach" measure.

The tir-cumaile would seem to be seventy-two square forach-measures. The following table represents the statement of the text:—

inch.						
1	hands.					
6	1	feet.				
12	2	1	paces.			
72	12	6	1	intritts.		
432	72	36	6	1	laits.	
2,592	432	216	36	6	1	forachs.
15,552	2,592	1,296	216	36	6	1

If we assume the foot measure to be practically equivalent to the modern foot, the "tir-cumaile" would be about 285 acres; on the other hand, if the forach-measure were equal only to 144 feet, as would appear to be stated in the passage referred to in the note to the text, it would be equivalent to about 10 acres. There are no means afforded by the text to enable us to express any definite opinion as to which of these quantities is the correct result, and it would be inconsistent with the object of the preface to discuss the question generally with reference to other and extraneous authorities; nor, perhaps, could such inquiries lead to any definite result.

The ingenious mode of calculating the value of land devised by our author, could never have been practically applied; the term "tir-cumaile" originally meant, and probably always continued to mean, "the land of a *cumhal*," and when so used, necessarily excluded the assumption of the land being of any fixed acreage. Mr. O'Curry considers the phrase "tir-cumhaile," as much land as would suffice for the grazing of a cumhal of cattle, and this may have been the ordinary sense in which the term was used.

XI.

THE CRITH GABHLACH.*

This tract has received especial attention from Irish Antiquarians, inasmuch as it professes to give a detailed description of the several social ranks and organization of the Irish tribe. Mr. O'Curry has, in his Lectures on the Manners and Customs of the Ancient Irish, adopted this treatise as an authentic and archæic work, and without hesitation accepted its statements as a sufficient authority for his detailed account of the earliest form of the Celtic tribe system. Dr. W. K. Sullivan, adopting the views of Mr. O'Curry upon this subject, attributes the date of its composition to the middle or end of the seventh century. Before any discussion as to the nature of the work and the conclusions which may be fairly drawn from its statements, it is necessary to consider the probable date of its composition. It must be first remarked that it does not consist of an ancient text with an annexed commentary and explanatory glosses, but is manifestly written throughout by an author according to a definite plan, and that to the later lawyers who may have made use of it, it presented no archæisms, either of custom or language, which required special comment or explanation. The most important passage, as indicating the probable date of the composition, is the statement relative to the four rights to which it was proper that a king should pledge his people, the first of which is stated to be "a right to help him to drive out foreign races, i.e. against the Saxons."* Assuming that these latter words are not a gloss which has crept into the text (and there is no reason to believe that they are), the date of the work must coincide with a period at which the Saxons were regarded as the enemies *par excellence* of the Irish people, and not merely as a hostile, but as an invading race. It is obvious that no Irish writer would have singled out the Saxons as the special enemies of the Irish during the period covered by the Danish invasions, nor after that date until the Saxon had, in the mind of the people, been substituted for the Dane as their natural enemy. The date of the work must therefore be either before the end of the eighth century, or after the English invasion, the period covered by the Danish invasions being absolutely excluded. The early relations of the Irish and Saxons were of the most friendly character, and naturally so as the Irish were then busily employed in plundering, and perhaps to some extent, conquering, their christian and Celtic neighbours across the channel. This point is thus discussed by Dr. W. K. Sullivan, in the following passage of his preface to the Lectures of Mr. O'Curry:—"The common object of attack, Roman Britain, brought the Irish and Saxons in contact at an early period. And this intercourse was, on the whole, of a most friendly character. . . The hostility of the two peoples appears to have first arisen in consequence of the quarrels between the

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* Mr. O'Curry, shortly before his death, revised and corrected his previous translation of this tract, making many important alterations and emendations. This revised addition has been entrusted to the present editors, and on all occasions the later and more matured text of Mr. O'Curry's translation has been followed in the present edition.

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* Page 335.

Irish and Saxon churches. Political causes helped to develop this hostility as soon as the Saxon dominion extended to the north of England, and the Saxon kings of Northumbria came into direct contact with the Scotic kingdom established in Scotland. The wars carried on by the Saxon kings against the Scots and Picts involved the Irish in the quarrels of their brethren in Scotland, and led to the ravaging of the coasts of Ireland by the Saxons. Venerable Bede records an expedition of this kind sent in the year A.D. 684, by Ecfrid, King of the Northumbrians, under a commander named Beort, 'which miserably wasted that harmless nation, which had been always most friendly to the English, inasmuch as in their hostile rage they spared not even the churches or monasteries.' It is in the seventh century that we find mention for the first time of the Saxons as enemies. The first notice of the Danes or Norsemen occurs in 790, or more correctly in 795. After that date, and until the arrival of the Normans, the Danes alone are mentioned as hostile foreigners. This circumstance is of very great importance in connexion with the date of the law tract, the *Crith Gabhlach.*" After citing the passage above referred to, he proceeds :—"If this example be not an interpolation of much later times, it shows, taken in connexion with other circumstances, that the important document in question belongs to the period anterior to the Viking expeditions, and in all probability to the middle or end of the seventh century."* If this view of the meaning of the passage be correct, it follows that one plundering expedition against the Irish seaboard so profoundly affected the national mind, that the Saxon was held by the people as a national enemy to be expelled from the island which he had invaded. No allusions to the Saxons as such enemies are cited from any of the early Brehon Law tracts or popular romances; no act of hostility save one isolated plundering expedition is referred to; and it is to be remarked that after this event the Saxons at least were ignorant of any hostile relations existing between them and the Irish; Bede reprobates the expedition as a wanton attack on a friendly nation; and at a later date Alcuin was of the same opinion, when, in a passage quoted by Dr. W. K. Sullivan, he described the Irish as "gentes Scotorum innocuas Anglis, et semper amicas."* The passage of the tract referred to would rather lead to the conclusion that the date

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* Manners and Customs, &c., vol. i., p. xxxvi.

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* The details of this raid, as related by the original authorities, are a proof rather of the friendly terms which always subsisted between the two nations, than that its result was to establish permanently hostile relations. The entire passage in Bede is as follows: "In the year of our Lord's incarnation 684, Egfrid, King of the Northumbrians, sending Beort, his general, with an army into Ireland, miserably wasted that harmless nation, which had always been most friendly to the English; insomuch that in their hostile rage they spared not even the churches or the monasteries. The islanders to the utmost of their power repelled force with force, and, imploring the assistance of the Divine mercy, prayed long and fervently for vengeance; and though such as curse cannot possess the kingdom of God, it is believed that those who were justly cursed on account of their impiety, did soon suffer the penalty of their guilt from the avenging hand of God; for the very next year that same king, rashly leading his army to ravage the provinces of the Picts, much against the advice of his friends, and particularly of Cuthbert of blessed memory, who had been lately ordained bishop, the enemy made show as if they fled, and the king was drawn into the straits of inaccessible mountains, and slain with the greater part of his forces, on the 20th of May, in the 40th year of his age, and the 15th of his reign. His friends, as has been said, advised him not to engage in this war; but he having the year before refused to listen to the most reverend father, Egbert, advising him not to attack the Scots, who did him no harm, it was laid on him as a punishment for his sin, that he should not now regard those, who would have prevented his death."—"*Ecclesiastical History*," Lib. IV., c. 26.

The Saxon Chronicle states —"A.D. 684. Here in this year Egfrid sent an army against the Scots, and Beorc, his alderman with it, and miserably they plundered and burned the churches of God."

The Saxons at least considered this raid *a sin*, and believed the king's subsequent death was a signal Divine chastisement.

The following is the statement in the Four Masters: "The age of Christ 683, the 10th year of Finachta. The devastation of Magh-Breagh, both churches and territories by the Saxons, in the month of June precisely; and they carried off with them many hostages, with many other spoils, and afterwards went to their ships."

The same raid is mentioned in the Annals of Ulster under the year 684, and in the Annals of Clonmacnoise under the year 680.

The captives taken upon the occasion of this raid were restored by the Saxons: "Adamnan went unto the Saxons to request [a restitution of] the prisoners, whom the North Saxons had carried off from Magh Breagh the year before mentioned; he obtained a restitution of them, after having performed miracles and wonders before the hosts; and they afterwards gave him great honour and respect, together with a full restitution of everything he asked of them." The Four Masters, Vol I., p. 291. The Annals of Clonmacnoise, under the year 686, states that, "Adamnan of the work must be brought down to some date after the English invasion, unless there be internal evidence which would render such a conclusion improbable; and, if the date be so far postponed, it must be referred to a period considerably subsequent to the first invasion, to that at which all the Irish tribes stood in a hostile position to the English king, and the invasion was at length successfully checked, or at the earliest date, to the first quarter of the fourteenth century.

There is also internal evidence which, independently of the passage referred to, would lead to the same conclusion.

The most remarkable change in the organization of the early Irish Church was the substitution of an episcopal for the monastic system. In the earlier form of church government the abbot, not the bishop, was the ruling ecclesiastic; the "coarb" of the original saint was the head of the ecclesiastical tribe; the pre-eminence and territorial jurisdiction of bishops arose at a date long subsequent to the commencement of the Danish invasion. Is it probable that a treatise descriptive of the ranks of society, if written during the life of Adamnan, and the vigorous existence of the Columban monasteries, would omit any allusion to an abbot, and speak of the bishop as travelling "for the good of the church and the territory," and as of rank equal, if not superior, to the king of the tribe? There is further no allusion whatsoever to the geilfine system, nor to the geilfine flaith as representing his "fine," and therefore an important item in the social system

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brought back sixty captives to Ireland." In the Annals of Ulster, under the same year, there is a similar statement.

It therefore appears that this invasion of the Saxon amounted merely to a raid along the coast between the rivers Liffey and Boyne; that all the restitution sought by Adamnan on behalf of his country was freely accorded; and that the inroad was regarded by the English as a sinful violation of their friendship with an allied nation. And it the more remarkable that upon his return to Ireland Adamnan succeeded in introducing into Ireland the Roman mode of computing Easter, which proves that at that date the Irish cherished no peculiar feelings of animosity toward the English or their ecclesiastical usages. (*See Bede Ecc. Hist., Lib. V., c.* 15.)

All the above references are contained in the notes to Dr. O'Donovan's edition of the "Four Masters."

—a very remarkable omission in a treatise of the character of the present. The condition of society exhibited in this work is that of the tribe system in state of decay and decadence, and rapidly tending to assume a feudal form. The simple freeman has sunk to the condition of the Saxon ceorl; the tribe lands have, to a great extent, if not altogether, been monopolized by the noble classes; the political power has passed into the hands of the chiefs and greater nobles; all classes, from the highest to the lowest, are bound together by the semi-feudal bond, founded upon the system of lending out cattle; all classes are rated for the payment of tribute to their superiors; and the basis of society seems rather to be personal service than the common rights of the members of the tribe. Except for the survival of ancient terms, and some archæic rules and peculiarities arising from the absence of a circulating medium and the material conditions of the people, the condition of the country, as thus described, was not very different from that it exhibited in the last century. This is the opinion of Mr. O'Curry, as expressed in the following passage:—"It is not very easy to translate into modern language the technical terms of the ancient law of Landlord and Tenant; but a very well matured system existed at a very early period indeed, under which, although there was no such thing as absolute property in land in any individual, still, within the tribe, individuals held exclusive property in land, and entered into relations with tenants for the use of the land, and these again with undertenants, and so on, much as we see in our own days. Now these relations constitute the first test of rank and condition. The Flaith —a word in some sense may be translated the Lord or Nobleman—was distinguished by being the absolute owner (within his tribe) of land for which he paid no rent, so that, if a man possessed but a single acre in this way, he was a Flaith. All other persons holding land held it either from a Flaith or from some tenant of his; and the rank and precedency of these persons depended upon the amount of their possessions."* Although there are many statements in this description to which exception may be taken, it fairly represents the practical condition of the Irish as depicted in the Crith Gabhlach, subject to the material correction that such was not the original system of the Celtic tribe, but rather the condition to which the tribe had been reduced at the date of the composition of this work. The same causes were at work in Ireland as elsewhere, and with the same results. The chiefs and nobles had succeeded in crushing the lower orders, and had converted into their own separate property the land originally the common property of the tribe. The Crith Gabhlach might fairly be described as a compendium of the rights and emoluments of the higher classes, of their house tributes, rents, cuttings, and costerings, and is not dissimilar from the old law book of the Brehon whereby the English commissioners "perceived how many vessels of butter, and how many measures of meal, and how many porks, and other such gross duties did arise unto M'Guire out of his mensal lands."*

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* Manners and Customs of the Ancient Irish, vol. ii., page 34.

It is not to be concluded that any Irish tribe or province was ever actually organized in strict conformity with the rules laid down in this tract. It is impossible to believe that a nation so mobile and turbulent as the Irish Celts lived under a system so rigid in its laws and pedantic in its minutiæ; that the different classes possessed so much and no more than the amount of property herein set down against them; inhabited houses of precisely the prescribed size, furnished in the manner described, and supplied with the farming instruments directed; that the occupiers of them paid so much and no more than their customary rents; and that the whole society, from the provincial King downwards, were bound, and acquiesced in, a complete system of semi-feudal service. The work must be considered as a description of society fully organized according to the current legal theory at the date of its composition; but it can no more be assumed that the existing community accurately corresponded to the legal theory, than that the condition of England in the twelfth century, was such as Blackstone's sketch of the feudal system assumes it to have been.

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* Ante, vol. iii., page 36.

The Crith Gabhlach treats of the various ranks of the freemen of the tribe, their mutual rights and duties, and the power and privileges of the King; the unfree classes of the community are only referred to in connexion with the rights and qualifications of the free.

The author lays down as the cardinal principle that the proper grade of the layman among the people is determined by the amount of his property. The number of classes of men is stated to be seven. That this number was selected as the sacred number, and was not in accordance with the actual state of facts, appears from the statement of the author himself, and the mode in which the division in classes is varied in different passages. The grades of a people are stated to be as follows:—(1) the "fer mbidboth" man, (2) the "bo-aire" chief, (3) the "aire-desa" chief, (4) the "aire-ard" chief, (5) the "aire-tuisc" chief, (6) the "aire-forgaill" chief, and (7) the king. This sevenfold division is stated to be derived from the similitude of the ecclesiastical orders, "for it is proper that for every order which is in the Church, there should be a corresponding one among the people."*

The two first classes represent the free but not noble, the latter five the free and noble.

The divisions of the noble class are then specified, and the number of them is again seven, viz.:—(1) the "aire-desa," (2) the "aire-echta," (3) the "aire-ard," (4) the "aire-tuisc," (5) the "aire-forgaill," (6) the "tamaise" of a king, and (7) the king. To complete the number seven in this, two further classes are introduced, the "aire-echta" and the tanist; the latter of these was an official person and not a class of individuals, and the same observation is applicable to the "aire-echta." The non-noble classes are classed as follows:—(1) the two grades of "fer-mbidba" men, (2) the "og-aire," (3) an "aithech" person, (4) the "bo-aire febhsa," (5) the "mbruighfher" man, (6) the "fer-fothla" man, and (7) the "aire-coisring" man. The seven classes are here again completed, first by the introduction of the "aithech," a very anomalous class, as subsequently explained in the text, and by the addition of the last three, viz., the "mbruigh-fer," the "ferfothla," and the "aire-coisring," two of which are the names of officers, and not of classes.

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* Page 299.

The scheme of classification used by the author of the tract on Precincts, must have been different from that of the author of this tract; for he also, dividing the society into seven classes, states the two lowest to be the "bo-aire" and the "aire-desa," and the highest to be the king, omitting to give the names of the four intermediate divisions, and, with reference to the extent of their precincts, he fixes their rank upon the basis of a geometric progression, a gradation inconsistent with the ratio of their properties and honor-prices as fixed in this treatise.

The several ranks are divided with reference to the amount of property requisite to qualify for each respectively, and from and in the proportion to the requisite amount of property follow their rights and privileges (some of which we should now class as duties): (1) the legal value attributed to their oath, contract, guarantee, and evidence; (2) the honor-price; (3) refections, or the nature and amount of food they should receive from a host; (4) sick maintenance; (5) the extent to which they could give protection to a third party who claimed it; (6) the "taurcreic," or the amount of stock to be delivered to them by the superior to whom they commended themselves (the commendation to a lord in consideration of the "taurcreic" might be oppressive or advantageous to the inferior, according to the circumstances of the time); and (7) the "bes tigi" or house tribute, payable in kind by the inferior to the superior to whom he had commended himself.

The following analysis of the necessary qualifications and rights of the several classes will render the relative positions of the respective ranks clear.

A.—THE NON-NOBLE CLASSES.

1. The "mbidboth" man. This class is sub-divided into two sub-classes, viz., the "mbidboth" man who had attained the age of fourteen years, but not yet that of seventeen years, "unless he has taken possession or succession before that, or a man of the Feini *grade* be a co-occupant with him," *i.e.*, unless he is himself in possession of a house, or be the joint occupant of one with a free man of full age (?), and the "mbidboth" man who had attained the age of seventeen years. The oath, contract, or guarantee of the former extended to the value of a "dairt" heifer; his refection was milk and stirabout; his protection extended to one of his own grade over the territory; his honor-price was a "dairt" heifer. The value of the oath, &c., of the latter was a "colpach" heifer; his protection extends to one of his own rank until he has given him double food (two meals ?); his refection was milk and stirabout; his honor-price a "colpach" heifer; his proportionate stock (taurcreic) was four "seds" in value; his food rent (bes tigi) a wether; his sick maintenance for himself and his mother new unskimmed milk every third, fifth, ninth, and tenth day, and also on Sunday.

It appears from this that the very lowest class of freemen were not, as has been stated, wholly devoid of property; they are presumed to possess a house, in respect of which they may be required to pay food rent to a superior, and they had a share, however small, in the common pasture, otherwise they could not have availed themselves of the proportionate stock (taurcreic) they might receive.

2. The Bo-aire or enriched churl. The "mbidboth"-man, upon acquiring the necessary amount of property, became *ipso facto* a "bo-aire" chief, because, in this case, there was no change of status, as in the transaction afterwards mentioned from the non-noble to the noble class. This increase is attributed to the profits made by stock received from a lord in the first instance; for he is assumed to have commended himself to a lord; such would seem to be implied by the rule:—"In three days after notice half a portion

(of fencing ?) is due from him for a field; a third part of the fee for his theft, and his drunkenness, and his laming, and of 'eric' fine for killing him goes to his chief;" the chief, his lord, has a right to a certain amount of his labour, and a share in all damages for injuries done to him.

A. The lowest grade of the general class of "bo-aires" is the "og-aire," that is a young-aire, one who lately acquired the rank of a "bo-aire;" his property must, therefore, be assumed to be the minimum sufficient to qualify for that rank. His property consists "of sevens;" seven cows and a bull; seven pigs and a boar; seven sheep, and one horse. The change in his position is marked by the statement that "He has land of three seven (21) cumhal value." The right to the land is connected with the possession of stock; but if a cumhal of land means enough land to graze a cumhal of cattle, or three cows, it would follow that he obtained grazing land far in excess of that which was necessary for his assumed stock. That the lands of a "bo-aire" may have far exceeded what was requisite for the grazing of a stock of "sevens," appears from the statement that there might be four or five "aithechs" on the land of one "bo-aire;" and as each "aithech" is defined as possessing ten cows, ten pigs, &c., the author must have contemplated the case of a "bo-aire's" lands being sufficient to graze fifty head of cattle, besides lesser beasts. The land held by the "bo-aire" was not his separate property, for there is a distinct reference to his paying one out of seven cows for the use of the land. The difficulty in understanding the "bo-aire's" position arises from their being no explanation of how or from whom he obtains the thrice seven cumhals of land. Stock, not land, is what the lord gave to the man who commended himself to him; that it was stock which was given pre-supposes that the inferior receiving the stock had, independently of his lord, the means of grazing them. It may be assumed that the proportionate stock given to the freeman not possessing other cattle, *i.e.*, the "mibdboth"-man fixes the share in the pasturage lands of a tribe to which each freeman was absolutely entitled, and that the right to put a larger amount of stock upon the common pasture land, was connected with the actual amount of stock possessed by their owner; but that for every additional seven cattle put upon the lands, one was left as the payment for the year's grazing—the profits of the waste grazing lands would probably in the end be monopolized by the chief, as the English feudal lords of manors contrived to possess themselves of the waste. The "og-aire" also possessed one-fourth share in a plough, an ox, a plough-share, a goad, and a bridle, and a share (*quere*, one-fourth) in a kiln, a mill, and a barn. His house was nineteen feet in length, with an out-house of thirteen. His proportionate stock was eight cows; his food-rent was a "dartaidh" heifer. His refection extended to two men, who were entitled to no more than milk and stirabout, and a certain amount of new or sour milk and cakes. The passage which describes the extent of his evidence, &c., and the amount of his honor-price, is very remarkable. It appears from a subsequent passage that the normal amount of the honor-price, and legal value of the oath, &c., of a bo-aire, was five seds;* but in the case of an "oc-aire," this was reduced to three seds, which fact is thus explained:—"And the two seds, which are wanting to it (*his honor-price*) *are wanting*, because the stability of his house is not perfect, and he is not competent to undertake liabilities for them, like every other "bo-aire" for the smallness of his property,† from which we must conclude that the new "bo-aire" was not a full "bo-aire," and did not obtain the full rights incident to his rank until some subsequent period.

B. The second sub-division of the "bo-aire" is the "aithech," who is distinctly stated by our author not to be a "bo-aire," but why he was not so considered it is difficult to discover. His property exceeded that of the "og-aire;" his stock was "ten," *i.e.*, ten cows, ten pigs, ten sheep, &c.; his house was twenty feet in length, with a kitchen of fourteen; the value of his oath, &c., and his honor-price was four seds; his proportionate stock was ten cows, and his food-rent the choicest of a herd of cows, and a bacon, four sacks of malt, and a wooden vessel of salt; he was entitled to refection for two, milk and stirabout, butter on Sunday, venison, sea-grass (?), onions and salt. His property and social position was superior to that of the "og-aire," and he was not considered as of the "bo-aire" rank, but what was styled "an immovable tenant." The reason given for this is as follows:—"What is it that puts this man from being in the rank of a 'bo-aire?' Because it may be that four or five such may occupy the land of a 'bo-aire,' and it could not be easy for each of them to be a 'bo-aire.'"* What is very noteworthy as to this class is the disproportion of the food-rent to the other incidents of his position, and proves some uncertainty as to his status. He, although possessing cattle, is described as grazing them upon the land of a "bo-aire;" but as a "bo-aire" is not described as having any land of his own, it must mean that he was some kind of sub-assignee of the "bo-aire's" grazing rights, and that the transaction bore some resemblance to the grazing partnerships referred to in the Book of Aicill.†

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* Page 309. † Page 307.

C. The "bo-aire" febhsa, or the wealthy "bo-aire," is one who has acquired the full rights of his class. His property is larger than that of the "og-aire"—he has twelve cows and twice seven cumhals of land, a house of twenty-seven feet and a back-house of fifteen, a share in a mill and a kiln, barn, sheep-house, calf-house, and pig-stye. As before remarked, the value of his oath and his honor-price were five seds, his proportional stock twelve cows, and his food-rent a male "colpach" heifer with its accompaniments.‡

D. The next class, the "mbruighfher" is evidently an official of the "bo-aire" rank, not an independent sub-division of the entire class. He is "the 'bo-aire' for obedience to judgment." His property is represented as twenty cows, two bulls, six bullocks, twenty hogs, twenty sheep, four house-fed hogs, two sows, and a horse, and he has also sixteen sacks of seed in the ground; he has a lawn for sheep about his house, a house of twenty-seven feet, and a back-house of seventeen feet, and outhouses. The value of his oath, &c., and his honor-price, are six seds. His proportionate stock was two cumhals, and his foot-rent a cow with its accompaniments.[*] The very peculiar enumeration of fines for all conceivable injuries to himself and his property prove that he occupied an exceptional position. It would seem that he was in some way bound to offer hospitality to a king, a bishop, a poet, or a judge "from off the road," and that his supply of eatables for such purpose was portion of his "obedience to judgment."

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* Page 309. † Ante, Vol. III., page 142. ‡ Page 311.

E. The highest of the members of the "bo-aire" class is described under the title of the "fer-fothla chief," and was so called because his cattle having become too numerous for the grazing which he himself possessed, he had commenced to give them out to others as taurcreic, or additional stock. There is no amount of property fixed as the necessary qualification for this rank, the test of the qualification for which was that his property was in excess of his means of supplying necessary grazing. The amount of his honor-price and the value of his oath, &c., is eight seds, his house was twenty-seven feet in length, with a back-house of seventeen. His proportionate stock was four cumhals, and his food-rent a cow with accompaniments one year, and a male colpach heifer the other.

A "fer-fothla" chief manifestly stood at the head of the "bo-aire" class, for it was the "fer-fothla" who is described as passing from the non-noble to the noble grade in the manner subsequently discussed.

F. The "aire-coisring" chief is evidently an official person, and not a sub-division of the "bo-aire" class. He is described thus:—"Why is the 'aire-coisring' (*i.e.*, the binding 'aire') so called? Because that he binds people, king, and synod on behalf of his tribe (cenel), in their rights of safety by verbal engagements; but they concede to him leadership, and a right to speak before (or for) them. He is the family chief then. He gives a pledge for his family to king, and synod, and professional men, to restrain them in obedience."[†] His honor-price and the value of his oath, &c., were fixed at eight seds. His house was thirty feet in length, and the

[*] Page 311.

[†] Page 317.

outhouse nineteen. His proportionate stock was five cumhals, and his food-rent a cow with its accompaniments, and a male "colpach" heifer, with its proportion of other food. No amount of property is fixed as a necessary qualification.*

The "aire-fothla" passed under peculiar circumstances from the "bo-aire" class into the noble class—that of the "flaiths." These are explained in the following passage of the text:—"When does the 'Aithech'-tenant become a chief having the bo-airich-ship? Upon going into a true green (the extent of precinct suitable to the rank of a flaith). When he has as much as the 'aire-desa,' it is then he is an aire-desa, &c."† When we turn to the explanation of an "aire-desa" chief's qualifications in a subsequent page, the following passage occurs:—"And he is the son of an 'aire,' and the grandson of an 'aire.'"‡ The "bo-aire-fothla" chief did not attain the rank of a "flaith" by merely purchasing an acre of land, for there is no reference to land in the transaction; nor did he acquire it by virtue of possessing merely the property of a "flaith," for his property was required to be double of that at which a "flaith-desa" was valued, nor again could he be considered a "flaith," unless both his father and grandfathers were "aires," which must mean something more than they had been "bo-aires." That there was some element of hereditary descent requisite to fix the social position of a "flaith" all analogy leads us to expect. The elevation of a "bo-aire" to the rank of a flaith was not simply equivalent to his being rated at a higher valuation. He acquired what was called the "deis"-right, which is thus defined in the text:—"What is the deis-right of a 'flaith'? The goodly right to protect his office *or rank*. There are four 'deis'-rights prescribed for the 'flaith'-chief. The ancient protection of the people (or territory) is his office in the territory, together with the office of leader, or 'tanist'-leader *of the army*, whichever office it may be, of his 'giallna'-tenants, his 'saer'-tenants, his 'sen-cleithe'-tenants, the punishment of every imperfect service, the following of cottier tenants and 'fuidher'-tenants whom he brings upon his land, because his wealth is the greater and better."* And again, "Why is the 'aire-desa' so called? Because of the fact that it is on account of his 'deis'-rights that he is paid 'dire-'fine. Not so the 'bo-aire' chief; it is in right of his cows he is paid 'dire'-fine."†

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* Page 319.

† Page 317.

‡ Page 321.

Upon this subject Mr. Hearn makes the following observations:—"Among the members of the clan itself, within the 'cinel,' in the strict sense of the term, and apart from the exceptional privileges of the royal house, there was a well-marked difference. That difference was between the noble and the free, or, as it may otherwise be expressed, between the gentle and simple. Both classes were equally members of the clan, and, to a certain extent had equal rights. But both by public opinion, and by the custom which supplied the place of law, certain sections of the community possessed, in comparison with other sections thereof, an acknowledged superiority. Their descent was purer; their wealth was greater; their wer-geld was higher; their share in the public lands, or in the distribution of booty, was larger; they were the natural leaders of the community in war, and its natural councillors in peace. Accordingly, we observe in the early history of all Aryan nations, the presence of what may be called a natural aristocracy, as the leaders and kinsmen of a natural democracy. It is not difficult to understand that some households should be more prosperous, more numerous, and more wealthy than the others. Yet these advantages are rather the effects than the causes of such a difference as that which we are considering. Even if there were no evidence, that in at least certain societies, land was distributed according to the rank of its holders, they are inadequate to explain all the facts of the case. They may account for the difference in modern society, where individuals rise and fall with a rapidity unknown to archaic nations; but they do not explain the strongly marked lines, which intersect the society of the ancient world. The preceding inquiries point, for the cause of the difference, to some sentiment connected

* Page 321.

† Page 321.

with the peculiar religion of our forefathers, and consequently affecting their descent. The facts correspond with the expectation. A certain series of pure descents was sufficient to establish freedom, and a share in the government of the community, and in the distribution of lands; but another and a larger series was necessary for the full enjoyment of all the honours and all the consideration which the community could give." "The rule of nobility seems to be the result of two other rules. One is that fundamental principle of taking the common great-grandfather as the stock or founder of the joint family or Mæg; the other is the rule of the Three Descents. The effect of the latter rule was, that for the purpose of acquiring full rank in any particular status, the claimant must show that his father and both (?) his grandfathers had held that status. Consequently, a man who claimed to belong to the nobility of the clan must show that his grandfather was noble—that is, that his grandfather had a kin, or in other words, had a great-great-grandfather who was a freeman." After referring to various other archaic systems of law, Mr. Hearn makes the following remarks upon the existence of this rule among the Celtic nations:—"The Celtic nations also exhibit traces of a similar custom. In Cymric law, the descendant of the original *Altud* or stranger to the district, was, after the lapse of three generations, ranked as a "Briodwr;" and thenceforth became irremovable, and was entitled to his share in the lands of the 'vicinity.' In Scotland a similar rule applied to serfs, although it is possible that in this case the rule may have been introduced from England. In Ireland the descendants of a Bo-aire, or Ceorl, might aspire, when they possessed land (?) for three generations, to become Flaths."* So, too, "A '*Fuidhir*' family† in the fourth generation—indeed, in the third, for the Daer Botach had also right of settlement—could not be ejected from the land. That is, the third descendant was capable of transmitting heritable right, and the fourth of acquisition by virtue of such right." As a curious exemplification of this principle,

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* Manners and Customs, &c., Vol. I., p. cix.

† Ib., p. cxxi.

Mr. Hearn refers to a passage in the Introduction of the preceding volume relative to the claims of his original church upon the property of a former member.* Upon the practical working of this rule Mr. Hearn further remarks:—"These considerations indicate the triple distinction of the ancient free population. It consisted of freedmen, of freemen, and of nobles. The distinction rested exclusively upon blood, and could not, therefore, be removed by grant either of people or of King. By the operation of time, if there were no disturbing influences, each lower class naturally passed into the one next above it. Each step of the promotion brought with it increased consideration, additional strength and influence, by reason of a more numerous kindred, and more extended alliances, and no small material advantage, both direct and indirect. At a later period, when the dependent portion of the household became developed, and the Gesindschaft was established, other varieties of rank arose. Nobility was then derived, not from birth, but from official position, and attendance upon the throne."†

The idea of "limitation" in the Irish law was connected with three successive lives, either of three persons in lineal descent, grandfather, father, and son; or of three successive over lords, as in the case of Daer Fuidhir tenants,‡ or of three successive owners, as in the case of rights of water. The same idea of three, or its multiples, being the basis of such calculations, also appears in the passage in this tract, stating that cottiers and "fuidhir"-tenants been "sencleithe"-tenants, and irremovable after serving for nine times nine years.

We may now proceed with the analysis of the remaining ranks in the tribe.

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* Vol. III., p. lxix.

† These extracts are selected from the VIIIth Chapter of "The Aryan Household," pp. 193 to 209.

‡ Upon this point Mr. Hearn seems to have fallen into error.—V.S.

B.—The Noble Classes.

1. The "aire-desa".—The property with reference to which this and the subsequent class are arranged, is manifestly land, as the number of the tenants of each is respectively stated, as in the non-noble classes the number of their cattle. The tenants of the "aire-desa" were ten, five "giallna," and five "saer"-tenants. The amount of food to be furnished by the tenants is stated in detail. An incident to the right of feasting at the houses of his tenants ("coshering") was the number of persons whom he might take to their houses from the "Calends" to Shrovetide; ten couples are the number specified in this case; in return he was expected "to protect his tenants in all just suits of 'cain' law and 'cairde'-law, standing towards them in the relation of a patron to his clients. The legal value of his oath, &c., and honor-price was ten 'seds'; the length of his house twenty-seven feet; his proportionate stock was six 'cumhals,' and his food-rent two cows."*

2. The "aire-echta" was an officer of the tribe, and does not represent a class; this is obvious because no property, qualification, rights, or liabilities, are specified in his case.† The duty of the "aire-echta" was "to avenge the insult offered to a territory in which a person was lately killed;" he was an appointed avenger of wrongs. This is illustrated by the case of the blinding of Cormac Mac Airt, "Aengus Gabhuaidech" was an "aire-echta" (translated "champion"), who was avenging a family quarrel in the territories of Luighne, and he went into a woman's house there and drank milk in it by force; and the woman said, "It were better for thee to avenge the daughter of thy kinsman upon Cellach, son of Cormac, than to consume my food by force."‡ Aengus thereupon at once proceeded to Temhair and slew Cellach; the point of the story seems to be that the woman reproached the "aire-echta" for plundering her under colour of avenging a family quarrel, while he left unperformed the more important and dangerous duty of slaying the king's son for the abduction of one of the women of the tribe.

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* Page 321. † Page 323. ‡ Ante, Vol. III., page 83.

3. The "aire-ard." He had twenty tenants, ten giallna, and ten "saer"-tenants; twenty couple were "his right on a feasting;" his honor-price and the value of his oath, &c., was fixed at fifteen seds; his proportionate stock was seven "cumhals," and his food rent three cows. There is no statement as to the size of his house.*

4. The "aire-tuisi," who had twenty-seven tenants, fifteen "giallna" tenants, and twelve "saer" tenants; he had thirty couples at the feasting. The value of his oath, &c., and his honor-price was fixed at twenty "seds"; his house was twenty-nine feet in length; his proportionate stock was eight "cumhals," and four cows his food rent. The aire-tuisi in the third generation participated in the government of the tribe. "He makes (*assists in making*?) 'corus'-arrangements in the 'raith' right of his father and grandfather."†

5. The "aire-forgaill" stood in rank at the head of the nobles, and next to the king and tanist; his position is marked by the words "he testifies to *the character of* the grades we have enumerated, in every case in which a denial of a charge is sought, because his quality is superior to that of his companions." This passage might lead to the conclusion that the "aire-forgail" was an official who had the power of deciding the status of the individual members of the tribe, but inasmuch as the "aire-forgaill" chief is introduced into the list of titles of dignities in the subsequent tract, although the "aire-echta" is omitted, it is probably that the name indicates a class, not an office, and that the right to give evidence as to the status of a member of a tribe was incident to the position of the first class of the nobles. He had forty tenants, twenty "giallna" and twenty "saer"-tenants; the value of his oath, &c., and honor-price was fixed at fifteen seds; his house was thirty feet in length; his proportionate stock nine "cumhals," and his food rent five cows.‡

6. The "tanist" of the king or his elected successor. He had five "sencleithe"-tenants more than an "aire-forgaill"-chief

* Page 325. † Page 327. ‡ Page 329.

b

from which it may be conjectured that his father and grandfather must also have been "aire-forgaill" chiefs. His honor-price and the value of his oath was fixed at thirty seds; ten "cumhals" were his proportionate stock, and six cows his food rent. There is no reference as to the size of his house, or his receipts from his tenants, which may be assumed to have been considered the same as those of the "aire-forgaill" chief, and it is probable that the additional five "sencleithe"-tenants, which he is stated to have, were not in addition to the number of the tenants required for the rank of an aire-forgaill, but are introduced to indicate that his tenants had acquired the position of "sencleithe"-tenants under his family, as a proof of the status of the tanist himself.*

7. The king. This rank is sub-divided into three classes:—

A. A king of hills or of horns; the term is not easy of explanation; it, however, is used to designate the position of the head of a fully organized tribe. Naturally no property qualification is annexed to this rank. His honor-price and the value of his oath, &c., were fixed at seven "cumhals"; his proportionate stock was twelve "cumhals," and his food rent six cows. The size of his house is not stated.*

B. A king of companies, the head king of three or four reguli. His honor-price and the value of his oath, &c., were fixed at eight "cumhals," for which amount his "sick maintenance" was to be commuted; his proportionate stock was fifteen "cumhals," and his food rent eight cows.†

C. The head king, whose supreme position is indicated by the passage, "under his control every chief is who cannot be corrected by his lord." His honor-price and the value of his oath, &c., were fixed at fourteen cumhals; as the supreme head he could give, but not receive, cattle, and therefore there is no reference in this case to proportionate stock or food rent.† His residence is described with much particularity as a fortified "dun" fort, but the length of his house does not much exceed that of the higher noble classes, being only thirty feet.

The rank of every freeman determined that of their family and dependents, and entitled them to proportionate compensation. "Half the sick maintenance *of a man* of every grade *is due* for his lawful son, *and* his wife; for it is half which is due for every lawful *person*, one-fourth for every unlawful *one*. The wives of mercenary soldiers have sick maintenance in right of their sons and husbands. Stewards *and* couriers are sustained with half the maintenance of their chief. They arrange that their share in the maintenance corresponds with their sustenance by their chief. Every artizan who makes the manufactures of a chief, or a church, is sustained with half maintenance, according to the rank of each person whose manufacture he makes."*

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* Page 329. † Page 331.

The object of the author in fixing the number seven as the basis of his classification appears in the passage:—"The maintenance of every grade in the church is the same as that of its co-grade in the laity."* He desired to treat the seven grades of the church as correlative to the seven grades of the laity, the *ostiarius* corresponding to the "mbidboth"-man, and the bishop to the King; or rather, finding the number of grades in the church fixed at seven, he attempts to classify the laity in seven grades, and either omits or interpolates ranks to produce the required result. This fact is conclusive of the extremely unreliable nature of the classification contained in this tract, and the impossibility of treating it as historical evidence of the organization of an Irish tribe at any period.

The analysis of this classification is shown in the annexed table. None of the incidents of any rank are introduced except such as are more or less common to all, and capable of being numerically expressed.

In these tables the names of the classes printed in Italics are those which are rejected upon the ultimate analysis. The introduction of the "aire-echta" to make up the number is manifest in this table. The series of numbers in all the columns seem to have been fixed before he was introduced, and any numerical qualifications attributed to him would have destroyed the regularity of the numerical sequence.

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* Page 333.

—	Value of Oath, &c., and honor-price.	Rent in kind from Tenants.	Company at Coshering.	Company in the Tribe.	Proportionate Stock.	Food rent of House.	Size of House.	No. of Tenants or property qualification in Cattle.
a^1. Mbidboth, . . 1.	1 dairt heifer, .	—	—	—	—	—	—	—
a^2. Do., . . . 2.	1 colpach heifer,	—	—	—	4 cows or 5 seds.	1 wether, .	—	—
b. Og-aire, ...	8 seds or 2⅖ cows.	—	—	—	8 cows or 10 seds.	1 dartaiah heifer.	19 feet,	21 cumhals of land, and 7 cows.
c. *Aithech*, ...	4 seds or 5 cows,	—	—	—	10 cows, .	1 cow, &c., .	20 „	10 cows.
d. *Bo-aire-febhsa*, . .	5 seds, 4⅘ cows,	—	—	—	12 cows, .	1 male colpach heifer.	27 „	14 cumhals of land and 12 cows.
e. *Mbruigh-fer*, . . .	6 seds, 7½ cows,	—	—	—	2 cumhals, .	1 cow, .	27 „	21 cumhals of land, 20 cows.
f. *Fer-fothla*, . . .	8 seds, 7½ cows,	—	—	4	4 cumhals, .	1 cow and 1 heifer.	27 „	Do., with excess of stock lent out.
g. *Aire-coesring*, . . .	9 seds, 11¼ cows,	—	—	5	5 cumhals, .	1 male colpach heifer.	30 „	—
A. Aire-desa, . . .	10 seds, 9⅖ cows,	1 cow, 1 colpach & 3 dartaid heifers.	20	6	6 cumhals, .	2 cows, .	27 „	10 tenants, 5*g* 5*s*.
B. *Aire-echta*, . . .	—	—	—	—	—	—	—	—
C. *Aire-ard*, . . .	15 seds, 14⅖ cows.	2 cows and 8 heifers.	40	7	7 cumhals, .	3 cows, .	—	20 tenants, 10*g*. 10*s*.
D. *Aire-tuisi*, . . .	20 seds, 19⅗ cows.	4 cows and 11 heifers.	60	8	8 cumhals, .	4 cows, .	29 feet,	27 tenants, 15*g*. 12*s*.
E. Aire-forgaill. . . .	15 seds, 19⅗ cows.	5 cows and 14 heifers.	—	9	9 cumhals, .	5 cows, .	30 „	40 tenants, 20*g*. 20*s*.
F. *The Tanist*, . . .	30 seds, 28⅘ cows.	—	—	10	10 cumhals,	6 cows, .	—	—
G^1. A King of Horns, . .	7 cumhals, .	—	-	12	12 cumhals,	6 cows, .	—	—
G^2. Do. of Companies, .	8 cumhals, .	—	—	80	15 cumhals,	8 cows, .	—	—
G^3. Head King, . . .	14 cumhals, .	—	—	30	—	—	37 feet,	—

If we turn to the scheme of the ranks of a tribe contained in the next tract, we find the arrangement wholly different. The titles of rank (or of discredit) given here amount to twenty-six. The arrangement is in the inverse order of that in the present tract, commencing with the King and proceeding downwards. The nine last of these classes may be disregarded as representing the unfree class. They are discribed as not possessing the right to go into the assembly who had no dire fine, and were not worthy to enter into bonds or securities.

There remain therefore seventeen distinct terms, representing, according to the author, so many classes of the free members of the community. Their respective grades are marked solely by the amount of their honor-price, and the number of persons to free feeding they were entitled. A reference to the case of the class No. 9 (the henchman "*seirthuid*"), and class 21, the "*aire*-tuisi", will show that the phrase "free feeding" means the supply of food to a certain number of individuals, not a right to pasture so many head of cattle. The sequence of the ranks of the free persons in the tribe, according to the sequel, would be represented as follows:—

Ranks.	Property.	Free-feeding.	Honor-price.
The "Uaitne," . . .	None, .	2 and a cow, .	5 seds.
The 'second' of a "Bo-aire,"	8 cows, .	3	2
The "Bo-aire, . . .	10 ,,	4	3
A "Flaethem" of one vassal,	—	5	4
A half "Flaethem" person, .	—	8	5
A full "Flaethem" person, .	—	10	10
A "dae" person, . . .	—	—	4 half cumhals.
An "ansruth" person, . .	—	4	⅓ cumhal and a sword.
An "idhna" person, . .	—	5	3 thirds of a cumhal.
An "aire-fine" Chief, . .	—	6	7 cumhals to four.
An "aire-desa" Chief, . .	—	10	1 cumhal to seven.
An "aire-tuisi" Chief, . .	—	20	1½ cumhals.
An "aire-ard" Chief, . .	—	30	3½ cumhals.
An "aire-forgaill" Chief, .	—	30	3⅓ cumhals.
A King of the 3rd rank, .	—	—	7½ cumhals.
A King of the 2nd rank, .	—	—	14 cumhals.
A King of the 3rd rank, .	—	—	5 cumhals of gold and a jewel.

As to the ranks common to both, the following result may be arrived at by a comparison of the tests:—The freeman, without any property, is called in the Crith Gabhlach a "mbidboth," and in the sequel an "uiatne"-man, these two terms representing the lowest class must be identical.

The "og-aire" of the first list corresponds partly with the 'second' of a "bo-aire," and partly with the "bo-aire" of the second list.

The "aire-desa" is common to both, and it appears from the amount of their honor-price, that the "full flaithem" and the "aire-desa" of the second list are identical.

The titles of the "aire-ard," "aire-tuisi," and "aire-forgail," are common to both lists, but the latter tract treats the "aire-ard" as identical with the "aire-forgaill." The sequel treats the "aire-ard" (or "aire-forgaill") and the "aire-tuisi," as officials simply, and they should, according to this authority, be struck off the list of the classes of society.

The result will be to reduce the number of the actual ranks of society to four:—(1) the "mbidnoth" or "uaitne" man, the freeman without property; (2) the "og-aire," or bo-aire, the freeman possessing a property qualification; (3) the "aire-desa," the noble with property qualification; and (4) three grades of Kingship. It is to be remarked that at these points the valuation as to honor-price exactly coincides.

If we refer to the scale of compensation for the death of any person killed, as set out in the Book of Aicill, the result is as follows:—

1. A king, bishop, professor, chief poet, and every archmech person, or best "aire-forgail" chief,	14	cumhals.
2. A middle or lower "aire-forgaill" chief, or "aire-ard" chief,	7	do.
3. An "aire-tuisi," or "aire-desa" chief,	4	do.
4. A "bo-aire," or "og-aire" chief,	3	do.
5. A "fer-midbaidh" person,	2	do.
6. A "flescach" person, or "dair"-workman,	1	do.*

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* Vol. iii., p. 475.

Upon a comparison of these three lists, the following results follow; that the essential distinctions as to ranks were five only, viz. :—(*a*) the Kings of three orders, and those persons, who, from their official position, were placed in the same category; (*b*) the nobles, who were sub-divided into four classes :—the "aire-forgaill," the "aire-ard," the "aire-tuisi," and "aire-desa"; and that the best "aire-forgaill" filled an official position, which placed him in the same category as the king; (*c*) the freeman possessing property, the "bo-aire;" (*d*) the freeman without property; and (*e*) the non-free classes.

That a great proportion of the classes introduced into the sequel are purely imaginary is evident upon the face of the tract. As between this tract and the Crith Gabhlach, to which it is supposed to be a sequel, the list in the former appears the more ancient and trustworthy; the author of the sequel, if he had had the Crith Gabhlach before him, never would have abandoned the principle of systemizing the ranks in sevens, nor omitted so many as seven of the grades. He also ignores the precise directions as to the sizes of their respective houses, and the amount of their furniture, which occupy so large a proportion of the Crith Gabhlach, and he does not allude to the amount of proportionate stock and food rent, which in the Crith Gabhlach is stated as an essential mark of rank, upon the assumption that all classes were bound in a feudal tie to some superior. The statement in the Book of Aicill is clear and practical, and is far more valuable as an authority than the later tracts. It naturally follows that we regard the Crith Gabhlach as, to a great extent, an imaginary work, the Utopia of a Brehon Lawyer, and, although containing very numerous fragments of archæic law, not affording any distinct basis of an historical character; and that a description of the condition of the ancient Irish nation, if founded upon a faith in the Crith Gabhlach, as descriptive of an existing order of society, must be considered as merely imaginary.

The concluding portion of this tract discusses the duties, rights, and appropriate mode of life of a king, according to the standard of the period; of the ideal king, who is described as a man full of lawfulness in all respects, consulted for knowledge, learned and calm.

Although there is difficulty in explaining many of the details, a definite picture is given of the mutual relations of the king and his people, and the mode of life at the date of the work. The duties and rights of the king are conceived as resting upon his representative character; as the "flaith," as the patron of his retainers or clientèle, or the head of the house on behalf of his family, represents in the assembly or before the judge all those technically "in his hand," so the kings stands as the agent of his tribe; "he swears for them to the king (*i.e.*, to the superior king) on behalf of the territory. He denies (or makes oath) on their behalf; he proves for them *to the extent of* seven cumhals. He goes into co-judgment, into co-evidence, with the king for his people."* The relation of the king to the tribe implied reciprocal rights and duties, as that of head of the household to its members:—"They are entitled to righteous judgments. They are entitled to a pledge on their part. They are entitled to sustenance as they sustain."* In three cases the king is authorized to bind the people by his promise made on their behalf; viz., a pledge for hosting, which means a levy of the armed force for a definite purpose, three of which are stated in the text; a pledge for right; and a pledge for international regulations. For three purposes the king was entitled to call the people together; for a fair, for a meeting for correction, or making a contract, or for the purpose of accompanying himself to the boundary.* The paragraph commencing in page 335 states:—"There are now four rights which a king pledges his people to observe." By this, having reference to the passage which follows, should probably be understood the rights which the king is entitled to exercise as against the people; the measure and extent of his executive authority. The first right mentioned is the right of "Fenechus"-law, but it is added:—"It is the people who proclaim it. It is the king that proclaims the other three rights, and it is the king that enforces them." The enactment of rules to bind the people rested with the people themselves; the king had no legislative power; he enforced obedience to the law, but could not himself enact one. As the idea of the enactment of a new law, in the correct use of the term, was quite foreign to the state of society with which we are dealing, this perhaps might be more correctly expressed by the statement that the people declared the custom, and made the regulations incident thereto, and that the king carried them out into execution; having reference to the second right attributed to the king, the "Fenechus"-law proclaimed by the people dealt with the division and management of the tribe land, which at the present day is the all-engrossing business of the Swiss Communes.

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* Page 333.

The second right of the king is defined as "a right after they have been defeated in battle, and he consolidates his people afterwards so that they are not broken up; and a right after a mortality."* Both of the circumstances under which this right of the king arose, are cases in which the tribe had suffered the loss of many of its members, and the relative proportions of the several households had been materially altered, and for the stability of the tribe, and to ensure cultivation, it would be requisite to redistribute the tribe land among the surviving members. The extreme case of a tribe having been driven out of its original territory, and establishing itself in a new district, would be an instance of the circumstances under which the exercise of this unusual authority on the part of the king would be necessary; so also if, by any casualty, a large proportion of the tribe perished (we frequently read in history of the destruction or banishment of an entire gens), the result must have been, to a greater or less extent, a recasting of a mode in which the tribe land was distributed.

The third right is defined as that of the King of Cashel in Munster, that is, such well-known rights as the King of Cashel, taking him as the leading case, is understood

* Page 335.

to possess.[*] Three such are enumerated, the first of which is obvious enough, "the right to help him to drive out foreign races." The right secondly mentioned, "a right for the sowing of seed," is not so simple or easy of explanation. Dr. O'Donovan explained it as a right of the head king, when the under kings were fighting among themselves and neglecting their legitimate business, to compel them to abstain from hostilities, and "to sow their lands." This is a remarkable instance of the habit of attributing the morals and ideas of the nineteenth century to the members of a semi-civilized community, and assuming that they did act as we think that we ourselves ought to have acted if placed in their position. If the over-lords had exercised this right it would have been very fortunate for the general body of the people, and the greater part of the annals would never have been written. The simplest explanation appears to be that the king could enforce the cultivation of the tribe-land in the ordinary course of customary husbandry. The third right is that "of lighting up religion, such as is found in the right (or law) of Adamnan."* The historical celebrity of the "Cain-Adamnan" arose from the rule exempting women from liability to military service; but this rule was only one of the clauses, and the reference here made seems to be to those enacting the performance of specified religious duties.

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[*] This passage in the original text manifestly refers to the celebrated Psalter of Cashel, supposed to have been written by St. Benean (or Benignus) to appease his relations, justly indignant that he, being a Munsterman, had blessed Connacht, whither he had been sent by St. Patrick to preach Christianity. "Cognati Sancti Benegni, ut populus Eoganiæ Casselensis, Olildiana progenies, et alii Momonienses, audito prædicto ejus facto, non parum offensi et contra virum Dei indignati dicuntur. S. autem Benignus, ut istam offensam aliquo grato dèlueret obsequio, famosum illud chronicon, quod *Psalterium Casselense* nuncupatur, inchoavit et composuit; in quo non solum totius Hiberniæ Monarchorum, sed specialiter Mumoniæ, acta, jura, prærogativæ, et successio censcribantur."—Colgan, Trias Thaum, c. 33, p. 205. If we are to assume that the Book of Rights practically represents and contains the substance of the Psalter of Cashel, the "right of a king" refers merely to the amount of food and supplies which he was entitled to receive from his feudatory chiefs. The Book of Rights is singularly devoid of any legal information or value whatsoever. If the author of this treatise was acquainted with the Psalter of Cashel, or the Book of Rights, it is difficult to understand how he has placed the feudal relation of the kings and their chiefs upon the taking of cattle and food rent, and not upon the receipt by the chiefs of the extravagant and fabulous gifts stated in the Book of Rights. The gifts represented in the Book of Rights, as presented by the King of Cashel to his feudatories, are, of ccurse, imaginary; but that a "king of companies" should take from the head king fifteen cumhals of cattle as his proportionate stock, and pay eight cows as the food rent of his house, is equally incredible. It would seem that both authors, each after his own fashion, were desirous of stating the relative positions of the King of Cashel and his under kings. The relation was created by the receipt by the inferior from the superior of some benefit, and a subsequent render of service in consideration of it. The actual transaction may have taken a merely symbolical shape, which the author of the Book of Rights has exaggerated in a poetic (?) form, and the author of this tract described in accordance with the usage prevalent among the lower classes. As there may be some who believe that St. Benean wrote the Psalter of Cashel, I do not rely upon the reference to that work as a conclusive evidence of the date of this tract.

The rank of the king was regarded as official, not personal; if, therefore, he engaged in the labour fit only for a plebeian, he was for the time being reduced to the plebeian grade, and his dire fine assessed accordingly. The four occasions when he thus lost his status were when he used a clod-mallet, or a shovel, or a spade, or when he travelled alone. The reason for this latter rule is remarkable: "This might be the day upon which a woman alone (without witnesses) might swear her child upon a king a day upon which no one could give testimony but *herself* alone,"* a rule not devised for the protection of the moral character of the king, but to prevent the danger of the introduction into the family of the king of spurious bastards, and to guard against such mischief as was caused by the facility with which Shane O'Niel acknowledged all children attributed to him. In one other case the king lost his status, and was entitled to the "dire"-fine of a non-noble person: when in retreating from battle he was wounded in the back. Upon this point the author remarks, with characteristically trivial accuracy, that the rule did not apply when the weapon had passed through the body and came out at the back.*

The days of week are in this treatise portioned out to the various duties and pleasures of the king.* He abstained from labour on Sunday, but his "occupation" upon this day was drinking ale, and distributing it to others, "he is not a lawful Flaith who does not distribute ale every Sunday." Strange to say there is no allusion to any religious ceremonial, an omission the more remarkable as the author writes under evident ecclesiastical influence. The remaining days of the week were appropriated as follows: Monday to public business ("for causes for the adjustment of the people"), Tuesday to chess, Wednesday to coursing, Thursday to marriage duties, Friday to horse racing, and Saturday to announcing his decisions ("giving judgments"). Such a passage is ample proof how much of the details and arrangements in this treatise are purely fantastic. No one for a moment imagines that a king spent his time in the absurd routine here suggested; yet it is not, in our opinion, more imaginary than the preceding specification of the size of the houses and the amount of the furniture of the respective grades of society. Such a work as the present can be relied upon in its general results only; as to the numerical details we have no means of distinguishing which are imaginary and which are exact.

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* Page 335.

The king was responsible, both to his own people and to externs, for illegal or irregular seizures or requisitions; this appears in a negative form from the exceptions to his assumed liability. The three excepted cases are: (1) the requisition levied upon a rebellious and reconquered territory; (2) a requisition upon the members of his own tribe when an extern king was his guest; when there was an unusual demand upon his hospitality; (3) the seizure of dry cattle which have trespassed upon the tribe waste. In the two latter cases the cattle were to be restored, which proves that what the author was treating was not the return of (or payment for) the goods, but the consequences of their illegal seizure.

The duty of hospitality is strongly enforced upon the king; such is the meaning of the paragraph commencing, "There are three fastings which bring no offence to a king."* The fasting alluded to is not the fasting of the king, but the fasting of his guests; a failure in the duty of hospitality is only excused by the absolute want of the means of providing the necessary food; what we should express in one general term is here stated in the form of three special exceptions. At the conclusion of the tract, the author describes an Irish king sitting in state at the head of his retainers and court; and in the passage it is certain that he has omitted no detail which, in his opinion, enhanced the splendor, or testified to the power, wealth, and luxury of a Celtic prince of the period.* At the south end of the house, which must be understood to be a large four-sided hall, are posted the body guards of the king, four in number; these are not men of his house, or of his tribe, but broken, landless men, whom he had freed from dungeon or gallows, or from servitude of the lowest grade, men without tribe or home, who existed only as the hirelings of their masters; the man, whose life the king had spared in battle, was not considered as sufficiently in his power, "for he may lay hands upon him and kill him out of devotion *to his own chief or people*"—such a man could not be trusted, for he had a tribe and home to which he might return. The four guards surround the king—one in front, one in the rere, and one on either side; to secure the fidelity of these mercenaries, they are watched by another stranger, one of the hostages furnished by the subject tribes, or the under kings; it is easy to see that if this man was a hostage for the fidelity of his tribe, they in turn were securities for his personal fidelity to the king, to secure which, further, he was allotted land to the large amount of seven cumhals, equivalent to the honor-price and judicial value of an under king; he is seated by the guards behind to watch their actions. From the king's right hand, along the east wall of the hall, are ranged successively his guests, his poets, his harpers, flute-players, horn-blowers, and jugglers; opposite the king, at the other end of the hall, sits his champion, who would be described in an Eastern court as "his chief fighting man;" on the king's left hand, along the western side of the hall, are ranged his wife, his brehon, and his "saer"-tenants, or noble vassals; at the door is stationed a "man of deeds," to keep it; before the champion and the doorward is set up the spear of each "against the confusion of the ale-house;" close to the champion, in chains, stand the "unredeemed hostages," whose appearance in fetters was manifestly an essential portion of the spectacle. Having exhibited the king in fulness of his power and splendour, the author asks: "Which is greater, a king or a bishop? The bishop," he replies, "is higher, because the king stands up (*to salute him*), by reason of religion. A bishop, however, raises his knee to a king."*

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* Page 337.

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* Page 339.

The impression produced by the Crith Gabhlach as to the condition of the Irish people at the date of its composition, is very unfavorable. Their houses must have been small and ill-furnished; the length of the house of an "og-aire" is set down as seventeen feet—about the size of the cottage of poorer class of farmers of the present day—and the house of the head king is stated to measure only thirty-seven feet in length; from this we must conclude that the habits and mode of life of the upper and lower classes were very similar; the houses would seem to have consisted each of one room only; the description of a house, as having so many "beds," not rooms, in it, shows that they all slept in one chamber; the houses were wood, or wattle-work, of a very unsubstantial character; the back house so often alluded to was probably a detached kitchen; the furniture described is of the simplest nature, and in insignificant quantity; although some golden and silver articles are mentioned, there is scarcely an allusion to rich dresses, jewels, personal ornaments, or works of art; the ordinary diet seems to have been of the coarsest description; and it is remarkable that there is no allusion to wine throughout; the description of the king's court must be very much exaggerated, or the size of his house under-estimated, for it would be impossible to crowd into a room of thirty-seven feet in length, the number of persons detailed as forming his court and retinue; the want of refinement in manners is marked by the fact of the champion and man of deeds at the palace retaining their spears "against the confusion of the ale-house."

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* Page 339.

The old tribal organization continued to be the supposed form of their social system. We read of the king calling his people together for various purposes, and of the people themselves declaring the "Fenechus" law, but the universal system of commendation extending from the low "mbidboth" man to the king of companies (every one of whom received cows from a superior, and paid his food-rent), and the masses of non-free tenants who swelled the retainers of the "*flaith*," prove that the new system of personal relation was being rapidly substituted for the bond of tribal union; the tribe lands had been monopolized by the noble class; whether by grant or force, fairly or unfairly, is unimportant. The double process is summed in the Latin sentence—"Hæc ferè pascua data sunt depascenda sed in communi; quæ multi per *potentiam* invaserunt." As a natural consequence, landless men and "fuidhirs" abounded; the general instability is proved by the custom of hostages, and the presence of the foreign retainers who surround the king; and the rules, as to the maintenance of the wife of the mercenary soldier, show that the hired gallowglass, the curse of Ireland, was not unknown.

The Crith Gabhlach may be fairly characterized as the fantastic production of an antiquarian lawyer of a strong ecclesiastical bias, composed at a date at which the tribe system was breaking up, and the condition of the people, both moral and material, had much deteriorated. The work is of the highest value as an antiquarian treatise, rather on account of the general principles which it assumes, and the incidental statements which it contains, than from the accuracy of its classification, or the truth of its minute details; and any deductions founded upon a belief in its historical value must lead to conclusions involving the too common error of substituting an imaginary, for the actual, condition of a people.

XII.

SEQUEL TO THE CRITH GABHLACH.

This tract deals with the same subject as the preceding, and can be advantageously considered in connexion with it. In the original manuscript no special title has been prefixed to the treatise, and for the purpose of the present volume it has been named the sequel to the Crith Gabhlach, implying that the subject dealt with in the preceding tract is further discussed in the present, but not that it was a work by the same author, or composed by another author as an appendix or continuation of the Crith Gabhlach; in the last section of the introduction it has been sufficiently shown that two different schemes for the sub-division of the rank of society are adopted by the respective authors, and that, so far from being complimentary, the latter tract is contradictory to the former.

The legal rights with reference to which the several ranks are classified by this author are specified by him as nine in number. As stated by the author, these appear to have been as follows:—(1) the greatest and least number of attendants brought by them to their cosherings upon their tenants, or accompanying them as their "company in the tribe"; (2) their feeding, probably the amount and nature of the food to be provided for them; and the amount of compensation to be paid to them under the following heads:—(3) for "esain"; (4) for wounding; (5) for insulting; (6) for the violation of their protection; and as (7) their honor-price; (8) also the obscure fines described as "blush"- and blister-fines; (9) and their exemptions before and after refections.* Although the classification may have been originally made with reference to these several heads, the detailed rights and duties of each class are very imperfectly stated, and all reference to some is wholly omitted. It is remarkable that to a large proportion of the classes specified the alleged grounds of the classification, certainly the greater portion

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* By "exemptions" we should understand "privileges" in the full extent of the word; either special rights or special duties, the enjoyment or performance of which distinguished the individual from the general mass of the nation.

of them are inapplicable, and that there is not any reference made either to their proportionate stock and food rent, or the sizes of their dwellings, matters dealt with in detail by the author of the Crith Gabhlach. The twenty-six classes stated in this tract of the classes of this tract are enumerated downwards, that is, commencing with the head king, and proceeding downward to the lowest grade, but it is perhaps more convenient in considering them to adopt the inverse order, and to proceed from the unfree classes as the natural basis. The nine last classes are intended to comprise the individuals, not members of the tribe, either as originally unfree, or as having lost their original status; they are described as not possessing a holding, or talents, or followers, and therefore not worthy to form part of the assemblies, or companies *of refection*, nor entitled to "dire" fine, or to enter into securities or give evidence. They are evidently regarded not as servile, but unfree, having no status, and possessing in their own persons no legal rights; it would follow from analogy that their persons could be protected and their property secured to them only by the intervention of some member of the tribe, in whose "hand" they would technically considered to be.

When the definitions of these nine classes are considered it appears that they are not arranged with reference to their respective rights, for they are all described as possessing none, but rather with reference to the causes whereby they had lost, or did not possess, any recognised status, and that the nine classes are sub-divisions of one class, distinguished from each other by purely accidental circumstances. The ranks thus enumerated are as follows:—

(*a*) A "henchman,[*] a soldier of a good race"—the nearest to the hip of a leader when going to the meeting, who, with his wife, was entitled to free feeding, and a fine for certain injuries. This is clearly a description of the immediate followers of the King; either of the four personal attendants who surrounded him in his hall,[†] or of the mercenaries whose wives had sick maintenance in right of their husbands.* The description in the Crith Gabhlach of the class of persons with whom the kings surrounded themselves, proves that they were selected precisely because they were not members of the tribe, and, therefore, bound to the lord by simply personal interests.

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[*] Page 353.

[†] Page 339.

(*b*)† The freeman who had "lost his patrimony, his lands, and his stock, and did not possess anything throughout the territory visibly or invisibly." By the loss of all his property the freeman lost also his status. This class must be distinguished from the "mbidboth"-man, the lowest class in the Crith Gabhlach, who, as having cattle lent to him by a lord, and paying food rent for his house, did possess a certain amount of property, however small, and therefore retained his status.

(*c*) A "cow grazier of a green,"† a term used metaphorically to express the case of the freeman who has lost his status, not from poverty, but by reason of disgraceful cowardice—a man dishonoured, as the Greeks expressed it, by having lost his shield; he is described as keeping his cattle within the green or enclosure near his house, and not daring to drive them out into the common pasture through fear of the wolves.

(*d*) A "Baitse"† tenant, of whom no description can be given except that contained in the text:—"A man who is not freed by profession or residence; that man does not belong to a company, who has not the deeds of a champion in him. He does not go security, nor is he a pledge with a chief or a church, because it is a sunbeam he is called."

(*e*) The fifth class is described as "a man matched with a bad wife, by whom he is rendered deranged and unsteady; such a person is defined as an "oinnit."† Extraordinary as are some of the definitions of the Brehon lawyers, it is impossible to believe that the author of this tract seriously intended to express what these words, in their plain and ordinary meaning, state, and not to suspect that an ancient and forgotten rule, either as to the origin or some specific acts of the wife, survives in this apparently absurd description.

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* Page 331. † Page 353.

(*f*) A "midhlach"* person, an effeminate, unwarlike man, a coward or an imbecile. As the coward has already been enumerated under the head of the "cow-grazier of a green," this class may more properly include idiots and imbeciles; the added words "so that he is the material of a victim to be given on account of the territory" (if the translation be correct), might mean that he was a very fit person to permit to be killed in expiation of a blood feud. The word "cimbid" admittedly means a man whose life is forfeited, "a victim," and the text appears to refer to his being utilized in this fashion, when it speaks of being or affording the "material for a cimbid."

(*g*)† A clown, mountebank, or buffoon, not a jester simply, but what we should call an itinerant tumbler, dishonoured because he "went out of his shape before hosts and crowds."

(*h*) A "rias-caire" man,† "a robber whom his race and family shun, a violater of 'cain' law, and of law, who goes from marsh to marsh, and from mountain to mountain," or as it is also explained, expressive of the latter fate of such an one, "a rath-builder who is enslaved to a chief and a church."

And lastly, (*i*)† The person described as "a crumb-fox, who gets the crumbs of all food natural and unnatural, whatever he crunches or eats is his;" by which may be meant a starving roguish outcast ready to appropriate and consume the fragments of other's victuals.

These descriptions of the unfree men throw a light upon the meaning and intention of the author's classification; he is not merely stating the legal grades and acknowledged ranks of society, but arranging the men of the society in which he lived, with reference both to their actual rank and supposed respectability, as he expresses it when he says that persons are estimated not only by form and race, land, tillage, and property, but also by their profession and worthiness. It is very natural to speak with contempt of cowards, fools, mountebanks, &c., but no one can contend that these various disreputable characters were acknowledged steps in the social hierarchy, which had its culminating point in the head king.

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* Page 353. † Page 355.

If a writer of our own day undertook to describe the various ranks of English society, and having commenced with the following:—"Tramps, housebreakers, acrobats, idiots, henpecked husbands, cashiered officers, insolvents, &c.," finally concluded with the "bishops, earls, marquises, dukes, the Lord Chancellor, and the Queen," we should understand that he had confused the ideas of legal rank and social respectability in a hopeless manner; and yet any such work, if preserved to a date at which a wholly different form of society had been substituted for that now existing, would be valuable to the antiquarian of the future as illustrative of the gradations of our society; but we may hope that enough of our literature will remain to prevent the occurrence of the mistake that insolvents and acrobats were ranks in society in the same manner as dukes, or that insolvents and housebreakers were permanent castes.

Bearing in mind the fashion after which the classification of the unfree persons has been constructed, let us turn our attention to the seventeen classes into which the free members of the tribe are divided. If we refer to the table in page cxcvii it will be observed that the ranks not common to both the systems of classification in this tract, and in the Crith-Gabhlach, are marked in italics. On examination, all these will appear to be grades of social respectability—not legal ranks—grades of respectability which gave those who possessed them substantial claims against the members of their families or third persons, or affected their compensation for wrong, but did not elevate them in the assembly above the other freemen, or entitle them to political privileges or grades in society arising from official position or public services.

These classes among the nobles are as follows:—(*a*)* the "aire-fine" the head of a "*fine*" (probably, as before suggested, the "geilfine-flaith"), a person of consideration and importance, as representing the members of the "*fine,*" but no more forming a rank in the tribe than the head of a house as representing the several members of the household.

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* Page 349.

(*b*)* The "idhna"-person, who has a number of sons who are born to him, and of male relatives (or brethren) to the number of thirty champions. He is entitled to free living of five from his "*fine.*" The key to the interpretation of this lies in his right to free living from the "*fine.*" He must belong to a "*fine,*" and there must be other households in the "*fine,*" in which he should have his free feeding for four. His qualification was the possession of sons and brothers, warriors—thirty in all. He appears to have been the head of a household (or joint family) within the "*fine,*" so numerous that the household allotment being insufficient to support them, a certain number were supported by the remaining houses of the "*fine.*" A person, the head of a numerous household, would manifestly be one of much power and influence in the early stages of society.

(*c*.) The "ansruth"*-person is described as one "who protects his mansion and his land. He is allowed (lit. *For him is*) the wounding a person in each term of the year. He has no fewer than twenty (attendants) in an extern territory. He has free feeding for four on every side, and from every chief in his 'tuaith.' He is entitled to a trusty sword for his honor-price." As the "idhma" was entitled to support from the "family," the "ansruth" was entitled to it from the tribe. His position involves the wounding or slaying of his others, and his absence from the tribe-land with the accompaniment of a strong escort. His peculiar honor-price, the sword, indicated his office. He may be easily identified with the "aire-echta" of the Crith Gabhlach.†

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* Page 349.

† The position of the champion or defender of a territory is well illustrated by the following passage of the Tain Bo Chuailgne:—

"Cuchulainn then asked his charioteer where the great road which passed Emania led to, and he answered that it led to *Ath na Foraire* (*i.e.* the Ford of Watching) at Aliabh Fuaid (a well-known mountain lying at the south of ancient Emania, (*d*) The "dae"-person* is described as one "who for another goes to fight his battle, when he has no help of his family." The position of this person is determined by his relation with neither the family nor tribe, but with some third person or persons, whose quarrel he has espoused. His position resembles that of a patron with a client, or a chief to whom a poor and oppressed man commends himself. Perhaps the description is intended to apply to the leader of hired gallowglasses, the condottiere of the period, which interpretation is rendered probable by the phrase, "he is entitled to free feeding and *that of his soldiers.*"† A character of this description, undoubtedly, never formed one of the normal ranks of the ancient tribe.

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in the present county of Armagh). 'Why is the ford called the Ford of Watching?' said Cuchulainn. 'Because,' said Ibar, 'there is an Ultonian champion constantly watching and guarding there, in order that no warriors nor foreigners should unperceived enter into Ulster, without being challenged by him to battle; and the champion must answer for any such challenge on the part of the whole province.' 'Do you know who is at the ford to-day?' said Cuchulainn. 'I do, indeed; it is the valiant and victorious Conall Cearnach, the Royal Champion of Erinn,' said Ibar. 'Well, then,' said Cuchulainn, 'you drive on until we reach that ford.'"—*Translated by Mr. O'Curry.* "*Manners and Customs of the Ancient Irish,*" vol. ii., p. 365.

* Page 349.

† He, whose cause the "dae"-person asserted, can scarcely have been a private individual, if any system of tribe law whatsoever existed, nor again can we understand a private individual supplying free feeding to him and his soldiers. The employer of the "dae"-man and his mercenaries must have been at least a tribe chief, and the sentence, "when he has not the help of a family," expresses the independent position towards his tribesmen, which a chief enjoyed who had secured mercenary support. The "dae"-man would thus be the leader of the mercenary guard, or head of the housecarls of a chief. Such bodies of men were called "*Lucht Tighe,*" or Household Troops. The *Lucht Tighe* of Tadhy O'Kelly, King of Hi Mainè, in Connacht, and of Ferghal O'Ruairc, King of Breefney, were conspicuous at the battle of Clontarf, A.D. 1014. In 1593 Hugh M'Guire, Lord of Fermanagh, marched to battle with the people of his own territory, and a body of "*Amhuis,*" or mercenary household troops drawn from other territories or countries. The regular organization of these household troops, or bodyguards of the chieftain, appears from the names of divers places; for example, we know that there was anciently a district in Monaghan called *Lucht Tighe mhic Mathgamhna*, that is, MacMahon's Household, because it was exclusively devoted to the maintenance of the chief's household troops, who thus "were entitled to free feeding on all sides."—*O'Curry.* "*Manners and Customs of the Ancient Irish,*" vol. ii., p. 391-2.

The three classes of the (*e*) "ogflaithem," (*f*) "lethflaithem," and (*g*) "flaithem of one vassal,"* are merely sub-divisions of the poorer "flaiths," with reference to their income, the amount of which naturally depended upon the number of their tenants; but there is no reason to believe that the rights of a flaith were measured in accordance exactly with the number of his tenants. Undoubtedly the "flaith," who had a large number of tenants who swelled the train of his retainers, and paid him food rent, which enabled him to support others, was a much more important person than the "flaith" with few tenants, and that poor broken-down "flaiths" with one, two, or three old tenants were very little, if at all, above, in public consideration, the cow-owning churl, who was rising into the noble class.

It appears from a passage in the last tract published in this volume that the descendant of "flaiths" might fall back, under certain circumstances, probably the want of qualifying wealth, into the non-noble class ;† but there are no grounds for considering that the "flaith" below the aire-tuisi were legally divided into ranks in the exact ratio of their fortune. The differences as to this point between this list and that contained in the Crith Gabhlach are very instructive as to the mode in which these detailed enumerations were composed, and the reliance to be placed upon their numerical statements. In both lists the bo-aire takes the highest position among the non-noble classes; and the ranks above that are "flaiths" or noble; the entire body of the "flaiths" below the rank of the "aire-ard" (or that of aire-echta?) are included, according to the scheme of the Crith Gabhlach, in the rank of the "aire-desa"; if the four classes of the "aire-fine," "idhna"-person, "ansruth"-person, and "dae"-person, be struck out of this list as not representing classes properly so called, the three remaining classes of the "ogflaithem," "lethflaithem," and "flaithem" of one vassal remain, who must fall within the class of the "aire-desa," as defined by the Crith Gabhlach; but the qualification of an "aire-desa," as defined in the Crith Gabhlach, was eleven tenants, and he was entitled to feeding for ten couples. It is evident therefore that many of the "aire-desa" class cannot have had the wealth specified in the Crith Gabhlach as the qualification for that rank, and that, despite the diminution of their wealth, they still continued "flaiths," as long, if we rely on the statement in this tract, as they had a single vassal. This is perhaps what is implied in the definition in this tract of the "aire-desa," as "a man who had preserved the patrimony of his father and grandfather in the same condition as he had found it before him, and who accumulates."* The name in this tract of "flaithem" of one tenant may, probably, at the date of this tract have been equivalent to the French term of the last century, which described a very impecunious nobleman, as the seigneur of a duck pond, the smallest conceivable amount of real estate which enabled him to assert his position as a seigneur. The "uaitne" person, as described in this tract, might be supposed to represent an office, and not a class, but it is clear that there must be interposed between the "bo-aire" and the members of the unfree classes, a class representing the freeman without the full property qualification of the "bo-aire," and the amount of the honor-price of the "mbedboth" and the "uaitne" man being identical, there are sufficient grounds for considering the two names as different designations of the same class.

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* Page 351.

† Page 381, l. 9.

It is important to submit the schemes of rank contained in these two tracts to close examination, as the apparently anomalous character of the Irish tribe has been chiefly produced by the assumption that the Crith Gabhlach should be admitted as an exact and historical document, and its numerical statements received without reserve as truthful representations of existing facts; so long as this mode of treating the Brehon Law tracts holds its ground, the ancient Irish tribe system must continue to be considered, as it has unfortunately too long been imagined, as an exception and an anomaly, a maze of technicalities incapable of disentanglement.

The tract next proceeds to deal with the ranks of the learned professions, before enumerating those of the church; the mode in which the various ranks in the several scales are considered equal to each other, and a harmony attempted to be established throughout, appears in the following introductory passage:—"The distinctions (or titles) of wisdom (literary professions) now are different from the titles of the laity, because it is a "cumhal" of increase of honor-price, which each grade of the church takes, from the lighter *of candles* up to the psalm singer. It is by seds, however, the increase of the "*fine*" grades and poets progress from low to high. Their proof and their denial too correspond; "a bishop and a king, the origin of all chiefs," &c.*

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* Page 349.

The classification of both the Ollamhs and poets is plainly merely an exercise of the imagination; the epithets and ranks are founded upon conceits, analogies, and plays of works, and there is no practical information to be gleaned from them. Upon the other hand, the discussion as to the "dire"-fines of ecclesiastics is one of the most interesting passages of the Brehon Law tracts, as illustrating the period between the break up of the Columban system and the institution of a regular episcopal hierarchy. The discussion upon this subject commences with the following extraordinary passage:—

"What is the highest dignity on earth? The dignity of the Church. What is the highest dignity which is in the Church? The dignity of a bishop.

"The highest bishop of these is the Bishop of Peter's Church, because it is under his subjection the chiefs of Rome are; and they are not under the subjection of anyone who has not virginity, or repentance, or lawful espousal; and it is to him that seven cumhals are payable for every degree of the seven degrees (or orders) that are upon him, if there be eric-fine for him at all; if not 'eric'-fine, *there is to be the* death of a person for it.

"Where is this *to be found?* It is in the tract which Augustine wrote about the degrees of the Church, and of their dire fines; and of their non-feedings, and the particular law of the church of Peter, and the emperor of the whole world."

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* Page 355.

The scheme upon which the cleric are arranged is a double gradation partly connected with the orders in the church, and partly in connexion with the religious condition of the individual. It is needless to observe that the moral and religious merit of the individual is referable solely to the one virtue of continence ; but it is certainly surprising that the author arranges all classes of the church, inclusive of the recluses into the three classes of virgins, married, and repentant. Every fine must, therefore, be the result of three quantities :—the official position, the moral state of the injured cleric, and the nature of the injury inflicted. It is impossible to construct in a tabular form the amount of compensation payable in each case, as the results stated in the text do not all coincide with the theory on which they are professed to be calculated. The general principle, however, is clear, viz.:—that the full amount calculated upon the rank of the injured cleric, and the nature of the injury, is payable in the case only of the cleric being a virgin ; this amount is reduced by one-third if the cleric be married, and again by another third if he be penitent ;[†] and that between

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[*] P. 363. Can the author of this passage have heard of the "De Civitati Dei," and conceived it to be a work of the character of the Crith Gabhlach?

[†] The penitence of the bishop may be referable to unchastity, either before or after his consecration. That charges of this description might be brought against a bishop, however eminent, appears from the Confession of St. Patrick: "Post annos triginta invenerunt me, et adversum verbum quod confessus fueram antequam essem diacouus. Propter anxietatem mesto animo insinuavi amicissimo meo que in pueritiâ meâ unâ die gesseram in uno in unâ horâ ; quia nondum prevalebam nescio, deus seit ; et habebam tunc annis quindecem et deum vivum non credebam, neque ex infantiâ meâ sed in morte et incredulitate mansi donce valde castigatus sum, et in veritate humiliatus sum a fame et nuditate et cotidie contra hiberione non sponte pergebam, &c.—"National MSS. of Ireland," Vol. II., Ap. III.I.

The Brehon lawyers evidently contemplated the case of a bishop falling into sin: "There are four dignitaries of a territory who may be degraded: a false-judging king, *a stumbling bishop*, a fraudulent poet, an unworthy chieftain who does not fulfil his duties. Dire-fine is not due to these" (ante, Vol. I., p. 55). See also the gloss upon this passage, the meaning of which is clear, although the translation is questionable. It may be inferred that the sinful and unrepentent bishop suffered a "diminutio capitis," as did the king when engaged in servile occupations.

the payments on account of injuries to clerics of various ranks, there is to be made a deduction of one cumhal for each grade in the ecclesiastical orders. It is very doubtful if the seven grades referred to in the text are the same as the usual ecclesiastical orders, as the clerical student and the recluse would seem to be included in the computation. The author appears to have considered that, in some cases of exceptional iniquity, the process of compensation by eric-fines was insufficient.

"What is the penalty (lit. *debt*) of wounding a virgin bishop? Three victims (cunidh) are to be hanged for every hand that wounded him; half the debt of wounding is paid for insulting him." "*As to* every person who sees, and who does not protect him by all his strength, by all his deeds, and that the guilty person escapes, it is seven cumhals *that are to be paid* for his sick maintenance and his eric fine."* Again—"So it is with every grade of virginity until it comes to the case of a virgin cleric, so that there are seven 'cumhals' for wounding him, or a victim."†

These passages prove that the author not only imagined that an aggravated injury of this class would entail the punishment of the guilty parties, but would also require "blood" expiation. These passages explain the expressions used in reference to the "midhlach" person in this treatise, viz., that he would naturally afford the material for a victim. Such a mode of punishing or avenging crime is inconsistent with the whole tenor of the Brehon law, and perhaps indicates that the author was a cleric, or of clerical sympathies, who enunciated principles for the benefit of the church which never formed portion of the customary law.‡

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* Page 363. † Page 365.

‡ The doctrine of the early Irish Church of the necessity of blood-shedding as an expiation for blood is fully set out in the poem of Dubhtach Mac ua Lugair, supposed to have been recited in the presence of St. Patrick, and under the immediate inspiration of the Holy Ghost:

"The truth of the Lord,
The testimony of the New Law,
Warrant that Nuada shall die; I *decree* it
Divine knowledge, it is known, decides
(To which veneration is due),

The following passage is remarkable as a proof of the religious ideas which existed at the date of the composition of this treatise:—

"There are three kinds of recluses in a church, *i.e.*, a lay recluse, upon whom a soul-friend pronounces his character *of approval*, and who goes to the sacrament, who is in the true unity of the church, without power of foot or hand. It is as a grade of virginity he is paid *fines*. He is of equal 'dire'-value with a virgin clerical student; so that there are seven cumhals for wounding, and he is of equal 'dire'-fine with him in every dignity besides, and shedding of blood, and white blow.

"A lay recluse upon he pronounces his character, who does not go to the sacrament, it is but two-thirds he reaches to the first lay recluse.

That each man for his crime
Shall depart unto death."——
"There was in the First Law of the men of Erin
That which God has not vouchsaved in His New Law.
The Trinity did not vouchsafe mercy,
Through heavenly strength to save Adam,
For it was perpetual existence
God gave him of His mercy,
Until otherwise he merited
By deserving death.
Let every one who kills a human being;
Even the king who seeks a wreath with his hosts,
Who inflicts red wounds intentionally,
Of which any person dies;
Every powerless insignificant person,
Or noblest of the learned;
Yea, every living person who inflicts death,
Whose misdeeds are judged, shall suffer death.
He who lets a criminal escape is himself a culprit;
He shall suffer the death of a criminal.
In the judgment of the law, which I, as a poet, have received,
It is evil to kill by a foul deed;
I pronounce the judgment of death,
Of death for his crime to every one *who kills*.
Nuada is adjudged to Heaven,
And it is not to death he is adjudged."

'It was thus that the two laws were fulfilled; the culprit was put to death for his crime, and his soul was pardoned and sent to heaven. What was agreed upon by the men of Erin was, that every one *should be given up* for his crime, that sin might not otherwise increase in the island.' Ante, Vol. III., pp. 11–13 & xx–xxiv.

" Another lay recluse is he who puts bounds to his passions, and who goes to the clergy this day, upon whom a soul-friend does not pronounce his character, or recommendation. To *the extent of* two-thirds he reaches unto the middle lay recluse."

"A person should not wonder that there should be an equal "dire"-fine for the lay recluses who are without virginity, if they be beloved of God, and their works great, if their miracles are as numerous, or if they are more numerous in the same way that Peter and Paul were to John, and in the same way that Anthony and Martin were; ut dixit Sciptura, "ubi habundabit dilechtum, super habundabit gratia."*

The author manifestly regards St. Peter as having been a married man, and, with reference to Paul, puts a well-known construction upon the twelfth verse of the ninth chapter of the First Epistle to the Corinthians.

The peculiar views put forward in this tract as to the position and duties of the clerics are remarkable, and are of importance in fixing an approximate date for the composition of this tract. The bishop, not the abbot, is the highest known ecclesiastic, indeed of the abbot there is no mention whatsoever; the marriage of the clerics is assumed as permissible, although discountenanced, inasmuch as the married cleric thereby to a certain extent lost caste, as proved by the proportionate diminution of his "dire"-fine; the recluse is treated as an acknowledged order in the Church, and he is intimately connected, for the purpose of the amount of his "dire"-fine, with his soul-friend ("anmchara"); the Pope was recognized as the highest bishop of the Church, and as 'ruling over Rome; and in the reference to the imaginary work of St. Augustine, there is an allusion to "the emperor of the whole world." These indications point to the transitional and obscure state of the Celtic Church after the breaking up of the Columban monastic system, and before its complete reorganization under continental influence, to the latest period of the existence of the Culdees, a remarkable era in Celtic ecclesiastical history, which has been lately fully dealt with, so far as the scanty existing materials permit, by Mr. Skene.* The allusion to "the emperor of the whole world" may help in some degree in fixing the date of the work. A Celtic pilgrim returning from Rome would state the impressions which the existing state of facts produced upon him; he certainly would not be influenced by the legal theories of the civil lawyers; the abstract idea of the all-ruling emperor would not occur to him unless the power of an existing emperor were brought home to his mind by what he saw with his eyes and heard with his ears among the public of the city. A pilgrim to Rome during the interval between the disappearance of the influence of the Eastern emperors and the date at which the Culdees finally ceased to exist, could have his attention drawn to the imperial power, as a universal dominion, only at two distinct periods—either during the reigns of Karl the Great and his son Ludwig, that is, between A.D. 800 and A.D. 840, or after the resuscitation of the imperial power by the Emperor Otto in A.D. 951. The expression of the Bishop of Peter's Church "having under his subjection the chiefs of Rome" (unless this be merely a Celtic phrase expressing sovereignty), would exactly describe the position of the Popes after the later date. This would point to the end of the tenth or beginning of the eleventh century as the probable date of the composition of this tract.

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* Page 367.

From these, and the various remarkable points of difference between this tract and the Crith Gabhlach, already alluded to, it may be inferred that the present treatise is the more ancient of the two, and represents an older condition of Irish society. A considerable portion of it, so much as deals with ollamhs and poets, is purely fantastic, full of the false discussions and quibbling classification so much in vogue with Brehon lawyers, and valueless except as a monument of misspent time and ingenuity; another portion, so much as deals with the clerics, although most valuable from an historical point of view, cannot be considered as a practical statement of existing law, but rather as a covert attempt to introduce legal innovations in favour of the Church; the residue, which treats of the classes of the tribe, is most valuable in every respect, although in dealing with it, and discussing the principle of the scheme upon which the ranks of the tribe are classified, it cannot be forgotten that it was written by the author of, or at least has been combined into one production with, the two latter divisions of the work.

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* "Celtic Scotland," vol. 2, chap. vi. and ix.

XIII.

SUCCESSION.

The last tract contained in the present has no heading or title in the original; it has been named, for the purpose of reference, as a treatise on "Succession," inasmuch as that is the subject which the author proposed to discuss. This work is of the fragmentary character, being nothing more than a collection of unconnected extracts or references, thrown together in a note-book as the materials for an intended work.

To this tract there is prefixed the following extraordinary head-note :—"By this book, if I can, in the name of God, I will bring the senior before the junior in every case, as these laws down here state. Beyond this I will make an intermixture of their law altogether."*

The object of the work was not to state what were the customary law upon the subject dealt with, but to collect authorities in support of an argument in favour of succession by descent and seniority, and, it may be gathered, in opposition to the rules regulating it by personal merit, property qualifications, or election. The author must, for the purpose of extract and reference, have had before him a considerable number of works, which it would be now difficult to ascertain or identify. As to the passage near the commencement of the tract, concerning the succession of an abbot,* it appears that the authority referred to is the concluding paragraphs of the Senchus Mor with the present annexed commentary.†

Although from its form, and the obvious intention of its composition, this work is unsatisfactory and of no authority, many of the extracts contained in it are both interesting and important. Many of them support the doctrine that the grade of an individual in the tribe was originally fixed with reference to property, and that the loss of the qualifying amount of property involved a *diminutio capitis*; *e.g.*, "Qualification is nobler than age."*

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* Page 375. † Vol. 3, page 79.

"The senior does not go before the junior, unless he be wealthier."*

"'A king without property is no king,' *i.e.*, as to tenants and kine."†

"'No unproductive person merits a share with the Feini,' *i.e.*, the person who is barren, without property, without worthiness, does not merit a noble share of 'smacht'-fines or sick attendance, according to the 'Fenechus'-law."‡

"'Let no wandering men pass judgment,' *i.e.*, there shall be no honor-price for the person who is wandering about without property."‡

"The inferior man with property is put into the land, or the chieftainship."

Other extracts accord more permanency to the status of a noble when once established. The "aire-forgaill" chief deserves a chieftainship or an abbey," even though he had but his arms or his raiment, he shall have the honor-price of a king, or of an "aire-forgaill chief"; to which statement the author prefixes the remark—"I wonder at this," and possibly considered it bad law.§ Other extracts prove that among the Celts, as elsewhere, the claim to the hereditary transmission of property and office was gradually assuming legal form:—

"The son of an abbot in the present church,
"*A fact established by sense,*
"The son of the husbandman in the territory,
"The son of the king to bind the hostages."§

This is obviously a verse of some composition intended to favour the hereditary succession to the coarbships of the greater monasteries, and even to inferior but profitable offices.*

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* Page 377.
† Page 381.
‡ Page 387.
§ Page 383.

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* "In the monastery of Lusk, in the list of the abbots, between the years 731 and 927, we find that the second and third abbots were brothers, and sons of the first abbot named in it; that the fourth abbot and the prior were brothers; that the son of the second abbot was 'economus,' or house-steward; that the fifth abbot was son of the third; that the eighth abbot was son of the sixth; and that the tenth abbot and the Bishop of Duleek and Lusk were brothers, and sons of the eighth abbot. Again, in the monastery of Gleann Uissean, near Carlow, we find, between 874 and 1016, the names of eight abbots and one *Aircinnech*, or Erenagh. Of these, the second and third are brothers, and sons of the first; the fourth and fifth are brothers, and sons of the third; the sixth was foster-son to the second, while his son was *Aircinnech*, or Erenagh; the seventh abbot was son of the fourth, and the eighth grandson of the second. Here the whole are direct descendants of the abbot who died in 874. Thus we find that the office of 'economus,' or house-steward of Armagh, was hereditary from 779, when the death of Cearnach, son of Suibhne, who was bishop of Armagh, is recorded, when he is called economus of Armagh. He is succeeded by three sons, one after the other. His grandson, by the third son, is bishop and anchorite of Lann Leire. The son of the latter is abbot of Lann Leire, and 'economus' of Armagh, whose son again is abbot of Lann Leire. But, perhaps, the most instructive example is connected with the celebrated monastery of Clonmacnois. Torbach, abbot or primate of Armagh in 812, was the son of one abbot of Louth, and the father of another abbot of the same place, and from him descended a family who filled many offices connected with Clonmacnois, and among them we find that even anchorites married, and were succeeded by sons. The family were called the *Cinel Torbaegh*. Their connexion with Clonmacnois began with his son Aedhagan, who died on his pilgrimage at Clonmacnois in 834; and his son Eoghan, the anchorite, who died in 845. Eoghan's son, Luchairen, scribe and anchorite at Clonmacnois, died in 863; and in 893 his son, Egertach, the *Aircinnech*, or Erenach of Eaglais-Beg, or the little church of Clonmacnois, died. In 947, the son of the latter, Aenagan Erenach, of the little church, and bishop and pure virgin—that is, unmarried—died; and in 953 his brother, Dunadhach, bishop of Clonmacnois, whose son, Dunchadh, *Ferleighinn*, or lector of Clonmacnois, and its anchorite, afterwards head of its rule and history, died in 1005. He was father of Joseph, who was *anmchara*, soul-friend or confessor of Clonmacnois. Joseph's son was Conn *na-mbocht*, or of the poor, who appears in the "Annals of the Four Masters," in 1031, as "Head of the *Cele De*, and anchorite of Clonmacnois, and who invited a party of the poor of Cluain at Isael Chiaran, and who presented twenty cows of his own to it. And Conn was father of Maolchiarain, Coarb of Ciaran, or abbot of Clonmacnois. It is unnecessary to follow this further; but it is obvious how prevalent at this time in Ireland was the marriage of the clergy of all classes, and the perpetuation of their ecclesiastical offices in the lines of their descendants, and that it had even broken down the asceticism of the anchorite, and the canonical rule of the *Cele De* in this respect. In Scotland we find that the territory of the old monasteries was called *Abdaine*, or Abbacy, a word represented in Latin by *Abbatia* or *Abthania*, and had, to a great extent, passed into the hands of laymen, who often retained for several

The most important extracts here contained have reference to the rule of three descents, before referred to, which determined the status of an individual with reference to that of his father and grandfather, viz.:—

"He is a disease of evils after three persons."[*]

"He is a hill of chieftainship in the third person."[*]

"For it gives a prescription of acknowledgment; three heirs have succeeded one another."[*]

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generations the name of abbot. The territory termed the Abthania of Dull, which was of great extent, and included the modern parishes of Dull and Fortingall, seems to have been in the hands of Crinan, the lay abbot of Dunkeld, and, along with the possessions of the latter abbacy, must have placed him on a par as to power and position with the great Mormaers of Alban."—Skene: Celtic Scotland, Vol. II., p. 341.

The causes and the results of the marriage of clerics in Ireland and Scotland is thus stated by Mr. Skene:—

"In the early Monastic Church of Ireland celibacy was enforced upon at least one class of the monks, for the saints of the second order refused the services of women, separating them from the monasteries; but still there was a succession to the abbacy, the tribe or family in whom it was vested providing a fit person in Orders to fill the office; but when the stringency of the monastic rule was broken in upon, under the influence of the secular clergy, marriage was gradually permitted and connived at, and at length became general, the rebound toward a secular state being great in proportion to the enforced strictness of the previous system. The natural consequence was that a direct descent from the ecclesiastical persons themselves came in place of the older system of succession, and the Church offices became hereditary in their family. The next step in the downward process was that the Abbots and Superiors did not take Orders, and became virtually laymen, providing a fit person to perform the ecclesiastical functions, but retaining the name, and all the secular privileges and emoluments of the abbacy. The performance of the Church service was either intrusted to a secular priest, who was called the 'sacerdos,' or *sagart*, or it fell to the *Cele De*, when there was such a body connected with the monastery, or to both combined. The great ecclesiastical offices thus became hereditary in the persons of laymen in two ways—either by the usurpation of the benefice by the lay chieftains from whose family it had been supplied, or in the family of the abbot by whose direct descendants the office was filled. It must be borne in mind that prior to 1139, though celibacy was enforced upon the monks by the monastic rule, and upon the clergy generally as a matter of discipline, marriage, when it did take place, was not unlawful. It was not until the second great Council of Lateran, held in that year, declared all such marriages *ipso facto* null and void that they became so; and the effect of this, where the benefice had become hereditary in a particular family, was, instead of restoring the former clerical character of its possessor, to stereotype their condition of laymen, and to convert them into a purely lay family."—"*Celtic Scotland*," vol. ii., p. 338.

[*] Page 379.

"They were once noble, *i.e.*, unless his father and grandfather were chiefs, though he may be of the same race; as to his origin, his chieftainship is lost to him."*

"'In which it is stated, that a chieftainship is lost,' *i.e.*, during the ages of three persons."*

"'A plebeian chief,' *i.e.*, one of plebeian race, whose father or grandfather was not a chief."*

"Question.—What is the 'ansruth'-poet? His father and his grandfather were 'ansruth'-poets; for every grade whatsoever, whether chief or poet, if he parts with his qualifications during the ages of three persons, his lot is not equal to those who are found in possession of their qualifications during the ages of three persons, until they double their qualification or their service."†

These extracts clearly prove the rule before referred to, that the possession of the necessary property, through three generations, was requisite to give the complete status of the rank to which the qualification was annexed; and that, taking a negative form, the rule was applied to the case of those who lost the qualifying property necessary for their rank, and that the third in descent in such a case lost his status absolutely, and fell into a lower grade.

But if a person acquired double the amount necessary to qualify him for a higher grade, he became a fully recognised member of that grade irrespective of descent. This explains the rule in page 317, which fixes the amount of stock requisite in the case of a "bo-aire," adjoining the rank of an "aire-desa," as double the qualification of the latter rank. The amount specified in this passage was that requisite to make the "bo-aire" a complete "aire-desa," and it may be inferred that if he acquired the amount of an "aire-desa's" qualification, he became an "aire-desa" *sub modo*. And in the same way if an "aire-desa" lost his qualification, the status of that rank was not absolutely lost until after the death of himself and his son, when his grandson absolutely passed into the lower grade. This partial acquisition of status in the first generation, and its completion in the third generation constantly appears in ancient laws. Thus among the Scandinavians there were the three gradations of the Frigiven man, his son, and his grandson, the Bondr.[*] In the Sachsen Spiegel, the rule is thus expressly laid down:—"Si qui in quatuor suis generationibus, hoc est ex duobus avis et duobus aviis, ac patre et matre indiffamati juris est, illum in jure nemo infamare potest." The same principle is marked in Roman law by the specific names for each step in the progression toward complete citizenship, viz.:—Libertus, Libertinus, and Liber; and explains the passage in the speech of Appius Claudius Crassus, contrasting the full patrician with the ordinary Quirite:—"An hoc, si Claudiæ familiæ non sim nec ex patricio sanguine ortus sed unus Quiritium quilibet, qui modo me duobus ingenuus ortum et vivere in libera civitate sciam, reticere possim."[†]

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* Page 387.

† Page 383.

The first phrase quoted from this tract is remarkably expressive, "He is a disease of evils after three persons," meaning that when the father and the grandfather have been evil, the fulness of the sins are developed in the grandson; this is precisely the expression of Demosthenes, *πονηρὸς ἐκ τριγονίας*,[‡] and gives the full point to the line in Sophocles:—

Θάρσει. σὺ μὲν γὰρ οὐδ' εἂν τρίτης ἐγὼ
μητρὸς φανῶ τρίδουλυς, ἐκφανεῖ κακή.[§]

To acquire the full rights of an "aire-desa," the "bo-aire" must have qualified himself by the possession of land held by his tenants, although he could acquire a qualified nobility founded upon the possession of cattle simply.

"The law styles that person a plebeian chief (a flaith-aithech) who desires to obtain a chieftainship in right of any other property, except in right of (other than) tenants; and by tenants is flesh meat supplied to the chief;" and again "that these kings are not entitled to anything in right of their property, *i.e.*, their cattle."[‖]

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[*] Robertson: "Scotland under her Early Kings," Vol ii., p. 322.

[†] Livy: Lib. vi., c. 40.

[‡] Dem. 1327. 3.

[§] O. T. 1062. For the references the Editor is indebted to Mr. Hearn's work, "The Aryan Household."

[‖] Page 383.

The qualification, therefore, of the chief, as founded upon the possession of land, had no reference, apparently, to the value of the land, or what would be now called his annual income, but was based upon the number of tenants upon his land, and the amount of their food rents; that is the number of his retainers made up of his tenants and the other followers, whom the food rents of his tenants enabled him to maintain.

The right of acquiring rank in the tribe founded upon the acquisition of property must, of course, be understood as applicable only to free members of the tribe themselves; as in all early communities the freedom of the tribe and the right to acquire or enjoy a portion of the tribe lands may be taken to have been practically identical.

The several tracts contained in the present volume have been collected from the following sources:—

(A.)

din teċtugad; or, Of taking Lawful Possession of Land. Translated by Dr. O'Donovan. Vol. I., pp. 91–123, of his official translation, and extracted by him from T.C.D., E 3, 5, and H 3, 17.

(B.)

breatha comaithcesa andso; or, the Judgments of Co-tenancy. This tract is described by Dr. O'Donovan as "Judgments of Co-tenancy," and was translated by him. Vol. I., pp. 1–90, of his official translation, and extracted by him from Rawlinson, 487, and T.C.D., E 3, 5, and H 3, 18.

(C.)

bech bretha; or, Bee Laws. Translated by Dr. O'Donovan. Vol. I., pp. 346–382, of his official translation, and extracted by him from H 2, 15, T.C.D.

(D.)

coibnius uisci; or, Right of Water. This tract is described by Dr. O'Donovan as "Of Water Mills, Mill Races," &c., and was translated by him. Vol. I., pp. 383–399, of his official translation, and was extracted by him from H 2, 15, T.C.D.

(E.)

maiġne; or, Precincts. Described by Dr. O'Donovan as "Of the inviolable space which surrounded every man's residence, according to his rank or dignity," &c., and translated by him. Vol. VII., pp. 2777–2786 of his official translation, and extracted from Egerton, 88, 54, a.a.

(F.)

do breiṫeaṁnus, &c.; or, "Of the Judgment of every crime," &c. Translated by Mr. O'Curry. Vol. VI., pp. 902–904, of his official translation, and extracted from H 3, 17, T.C.D.

(G.)

téd an fearann a cintaiḃ; or, "The Land is forfeited for crimes." This was translated by Dr. O'Donovan. Vol. V., pp. 2320–2369, of his official translation, and extracted from Egerton, 88, 22, b.a.

(H.)

fodla tire; or, "The Divisions of Land." This was translated by Dr. O'Donovan. Vol. IV., pp. 1251 to 1253, of his official translation, and was extracted by him from H 3, 18, T.C.D.

(I.)

de fodlaib cineail tuaiṫi; or, Of the Divisions of the Tribe of a territory. This was translated by Dr. O'Donovan. Vol. I., pp. 268 to 277, of his official translation, and extracted by him from H 2, 15, T.C.D.

(J.)

crith gaḃlaċ. The Crith Gabhlach. This was translated by Mr. O'Curry; his first translation appears in Vol. I., pp. 1–76, of his official translation; his revised translation is paged as pp. 2340–2400, and the text was extracted by him from H 3, 18, 252, T.C.D.

(K.)

The sequel to the Crith Gabhlach, described by Mr. O'Donovan as an unnamed tract of the different ranks of society and privileges translated by him. Vol. IV., pp. 1300 to 1314, and extracted by him from H 3, 18, T.C.D.

(L.)

An unnamed tract, entitled by the editors, "Succession." Described by Dr. O'Donovan as a Tract on the law of Succession, or paths of Judgment. Translated by him. Vol. V., pp. 2199–2220, of his official translation, and extracted by him from Egerton, 88.

SYNOPSIS OF INTRODUCTION.

I. The present volume of tracts selected as illustrating the land laws of the early Irish, and the constitution of the Celtic family and tribe, p. i. Whatever abstract legal propositions the Brehons possessed to be found in the tracts. First inquiry, whether there is an authentic archaic text, p. viii. Composition of original Brehon text, p. x. Principle on which a translation ought to be based, p. xi. Method adopted by editors in dealing with the text, p. xii.

II. ON TAKING LAWFUL POSSESSION.—A consecutive treatise dealing with the symbolic ceremonial by which an action for recovery of land was instituted, p. xiii.; exhibits the mode in which the judicial authority of the Brehon arose, and the series of legal fictions necessary to bring a defendant into court. The authority of the Brehon the same as that of the judges in other Aryan tribes. The Brehon system an instance of archaic survival. The Celtic Irish never formed town communities, p. xiv. All judicial authority derived from a system of voluntary submission to arbitration. The origin and theory of judicial authority in primitive communities reconsidered. "Custom" defined as the acquired habits of any human community, p. xv. Jurisdiction of judges gradually established by a series of fictions. Quarrels begin to be submitted to arbitration of tribe, p. xvii. Method of bringing suit into court, p. xviii.

The case of the Romans considered, judicial customs of the Quirites described and compared, p. xx. The Roman procedure, symbol its characteristic, *manuum consertio*. The peculiar analogy to the Brehon procedure for recovery of land, which is identical with the Roman form up to a certain point, but modified to suit different cases, pp. xxi–xxiii.

The case of Ninne, the son of Matech, considered. The Brehon procedure for recovery of land described, p. xxiv.

First step towards the establishment of original judicial power was the publication of antique formulæ, p. xxviii. Inconsistency between the text and commentary as to the form pursued by a female claimant. The leading case of the woman Ciannacht. Seven exceptions to the ceremonial of laying claim to land, p. xxix. Highly improbable that the ancient ceremonial was exclusively applicable to lands let on rents, p. xxxi. The procedure further described. The system of counter-claim, p. xxxii. Amount of fine paid by unsuccessful claimant. Discussion of the term "coibhue," and the various classes of tribe lands, p. xxxiii. Definition of "raitech" persons divided into three classes, p. xxxvi. Horses used at first exclusively in the symbolical entry, cows afterward substituted from necessity. Forms of procedure ended with reference of dispute to arbitration, p. xxxvii. Allusion to the mode in which a dispute is decided in an Indian village community. Mr. Wallace's description of a meeting of a Russian Mir to assess taxation, and divide village lands referred to, p. xxxviii. Judicial development among the Irelandic Norse. The procedure detailed in two trials before the Althings, related in the Sagu Burnt Njal, p. xxxix. The foundation of the jurisdiction, the position and functions of the Celtic Brehon clearly stated, p. xl. An attempt to express in distinct terms the substance of two fragments of ancient dicta, pp. xli–iii. The case of Seither illustrative of the nature and the date of the Brehon law, p. xliv.

Passages indicative of the modern and equitable mode of viewing the essence of the transfer of property, p. xlvi. Assertion of the doctrine of purchase for valuable consideration without notice. Passages laying down the ancient theory of society, p. xlvii. Explanation of the term "ternal covenants," p. xlviii.

III. THE "FINE" AND THE "GEILFINE" SYSTEM.—No distinct explanation of the system anywhere given in these tracts, p. xlix. A remarkable passage in a preceding volume reprinted, explanatory of the mode in which property was divisible among the members of a family, pp. l–liii. Three distinct theories published as to the origin and working of the Geilfine system since date of the last volume of Brehon Law Tracts, viz., those of Sir H. S. Maine, Dr. W. K. Sullivan, Mr. J. F. M'Lennan. The views of Sir H. Maine stated and explained, p. liv. Dr. W. K. Sullivan's theory quoted; adoption of it by Mr. W. E. Hearn. Welsh rule of inheritance cited, p. lviii. Mr. M'Lennan's theory stated, pp. lix–lxiv. Importance of the tract entitled "Of the Divisions of the Tribe of a Territory," p. lxvi. Deductions from the tract entitled "The Land is Forfeited for Crime," p. lxix. Welsh rules of inheritance, pp. lxxv–vi. Description of the "Geilfine" system, pp. lxxx–lxxxviii. The rules of succession laid down in the Book of Aicill considered, p. lxxxix. Conclusions arrived at, p. xciii.

IV. ON THE INCIDENCE OF FINES AND COMPENSATION FOR CRIMES.—The tract "Of the Judgment of every Crime which any Criminal Commits" considered, pp. xciv–ci. The tract "The Land Forfeited for Crime" considered, pp. ci–ciii.

V. THE SUCCESSION TO LAND, p. ciii. Description of the first land system, p. civ. The origin of succession appears to be co-ownership, p. cv. Illustration of the rules of succession, p. cvi. Distinctions between various classes of tribe lands explained, p. cvii. Three cases of liability and heirship stated, p. cviii. Liability to pay fines, and the custom of compensation explained, pp. cix–cx. The question of the nature of the interest taken by the sons in the lands of a deceased discussed, cxi-cxii. Hereditary succession and rules of descent, pp. cxii–cxv. Female succession, pp. cxvi–cxvii.

VI. JUDGMENTS OF CO-TENANCY, p. cxix. The partition of lands, p. cxx. Fencing, p. cxxi. Trespass by cattle and damages, pp. cxxiii–cxxviii. Trespass by bees, hens, dogs, p. cxxix. Man trespass, p. cxxx. Existence of tenants in the modern sense of the term, p. cxxxviii. Rules laid down on the relation of landlord and tenant, pp. cxxxiii–cxxxviii. Several and individual ownership of land perfectly familiar to Irish lawyers, p. cxxxix. Value of this tract, p. cxl.

VII. BEE JUDGMENTS, p. cxli. The legend relative to introduction of bees into Ireland given, p. cxli. This tract valuable as illustrating modes of thought and logical abilities of Irish lawyers, p. cxliii. Possession of bees considered, p. cxliv. English and Roman law thereon, p. cxlv. The Brehon law of bees, pp. cxlvi–cli. Commentary thereon, p. clii. Welsh law, p. cliii. Norman law, p. cliv.

VIII. RIGHT OF WATER, p. clvi. Tracts of the right to construct watercourses and mills. Compensation, when payable, p. clvii. The question of ownership, p. clviii. Mr. O'Donovan's opinion, p. clix. Ditches divided into two classes, p. clxii. The reason why Brehon law is difficult and obscure, p. clxiii. Water mills, when first introduced into Ireland, p. clxiv.

IX. PRECINCTS, the extent of each determined by a national convention held at SLIATH FUAIDH, p. clxv. Damages for violation,

p. clxvi. Protection must be legal, p. clxvii. Amount of damages, and number of fugitives allowed, p. clxviii. Mr. Hearn's description of the original position of the fugitive, p. clxix.

X. DIVISIONS OF LANDS, the tract an attempt to fix arithmetically the value of a *cumhal* of land, p. clxx. In ancient Ireland no currency or standard of value, p. clxxi. The difficulty of expressing the value of land obvious, p. clxxii. How attempted to be solved, p. clxxiii.

XI. CRITH GABHLACH, the date of its composition attributed by Dr. Sullivan to the seventh century, p. clxxiv ; by the editors to the eighth century, p. clxxv. The early relations of Irish and Saxons discussed by Dr Sullivan, p. clxxvi.

Change in the organization of the Irish Church, p. clxxviii. Opinion of Mr. O'Curry on the then condition of society, p. clxxix. This tract a compendium of the rights and emoluments of the higher classes, p. clxxx. The proper grade determined by amount of property, p. clxxxi. List of classes, p. clxxxii. Analysis of necessary qualifications and rights of several classes, pp. clxxxiii. Mr. Hearn upon the subject, p. clxxxix. Extreme unreliable nature of classification contained in this tract shown, p. cxcv. Tabular analysis, p. cxlvi. Sequence of ranks shown in table, p. cxcvii. Scale of compensation for death given in book of Aicill, p. cxcviii. The Crith Gabhlach must be regarded, to a great extent, an imaginary work, though giving a definite picture of mode of life, p. cxcix. Duties and rights of kings, p. cc. The week, how portioned, p. cciv. Full description of a king in state, p. ccv. Condition of Irish people at the date of this tract very unfavourable, p. ccvi.

XI. SEQUEL TO THE CRITH GABHLACH, p. ccviii Another classification given, p. ccix. Definitions of classes, p. ccix., compared with those in the Crith Gabhlach, and closely examined, p. ccxii. Discussion on "dire" fine of ecclesiastics a most interesting passage in Brehon law, p. ccxvii. Important views put forward in this tract as to position and duties of clerics, p. ccxxi.

XII. SUCCESSION, p. ccxxiii. Although of a fragmentary character this tract contains some interesting matter, p. ccxxiii. Most important extracts have reference to the rules of three descents, p. ccxxvi.

ꝺin ꞇeċꞇuᵹaꝺ.

OF TAKING LAWFUL POSSESSION.

DIN TEĊTUGAD.

Of taking lawful possession.

Tocombachtaib sealb saerteallaiġ; modaiġ mairc mbrugsaite; bactair cricha coma comol; aitheam gaibear tuiniġe madon teallach medonach; ni firteallach tuiniġe.

Tocombachtaib sealb, .i. is toich no is luath toibgit na sofir a ferann tres in teċtugad so sis do bruth ind. Modaiġ mairc mbrugsaite, .i. is tre gnimrad a nech firenaigtir doibsium he. Bactair cricha coma comol .i. coṁcairdi .i. batar leis riam na criċa .i. seichim no indsaigim co naccomailter a ferann dóibsium amlaid sin. Aitheam gaibear tuiniġe .i. is aithiu aem, is luaithíu gabus nech tuinidi in fearaind on techtugad medonach ina on cét techtugad. Madon teallach medonach .i. nocha lais in fer beres techtuga is in ferann da cét teċtuga tuiniḋe in feruinn ar ai a cét teċtaigṫe; aċt aruċ cirt nama imbid. Ma rombe is maiṫ, manu be, anaid deaċma ocus is lasom tuiniḋe isuiḋiu. Ni firteallach tuiniġe .i. noco leis in fer berus teċtugad is in ferand tar clad in feraind da teċtugad tuiniḋe in feraind ar ai in cét teċtuigṫi, mana tabra in tellaċ eile.

.1. cid fir beirear in teċtaḋuġ is amlaid do berad é; abad teora deċmaḋ do tabairt iman ferann; abad caċ lae do tabairt ime re re na cét deċmaiḋe, no comaḋ as in cét ocus is in lo degeanaċ, ocus is in lo medonaċ; ocus munar tíncead he rus in re sin, is dul do anund co hor ín feraind ocus da eaċ ína laiṁ, ocus fiaḋne lais, a forba na cét deċmaide; ocus ro bad coir dliged do a forba cuici is in cét decmaid, ocus a ninditeċt na deċmaide medonċi, ocus beṫ do ṫall re la co naiṫċi; ocus muna tincear é ann sin, is dul do amach re re na deċmaide medoncí, ocus ro ba coir dliged do a forba cuiċċi is in deċmaid medonaiġ; ocus abad dó caċ lae ar ín mbidbaiḋ re re na

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[1] *Of taking lawful possession.*—The Irish for this is taken from O'D, 409. (H. 3, 17, col. 311.)

OF TAKING LAWFUL POSSESSION.[1]

NOBLE tribes quickly obtain possession of land; it is secured to them by the work of their horses; lands are not taken possession of until proof is given; he shall sooner get possession if from the middle entry; it is not true possession.

OF TAKING LAWFUL POSSESSION

Quickly obtain, i.e. it is soon or quickly that the good men obtain actual possession of the land by bringing the[a] requisites for taking possession into it. **The work of their horses**, i.e. it is through the work of their horses it is justified to them. **Lands are not taken possession of**, &c., i.e. equal 'cairde,' i.e. he had the territories before, i.e. I hold or I maintain that their land is not retained by them after that manner. **He shall sooner get possession**, i.e. quicker or sooner does one obtain possession of the land from the *date of the* middle possession-taking than from the first possession-taking. **If from the middle entry**, i.e. it is not to the man who brings the means of possession-taking into the land for its possession for the first time that the possession of the land belongs on account of its first possession-taking; *he has* but an inception of right alone respecting it. If it is, it is well, if not, there is a stay of ten days and the possession is his then. **It is not true possession**, i.e. it is not to the man who brings the means of taking possession into the land *and* over the fence of the land for its possession that the possession of the land belongs on account of the first possession, unless he makes the second entry.

[a] Ir. *These below*

Whatever man brings the means of taking possession it is thus he shall bring it: he shall give notice for the space of thirty days upon the land; he shall serve notice every day respecting it during the period of the first ten days, or *according to others*, on the first and the last day, and on the middle day; and, unless he has been responded to during that time, he is to go over to the border of the land, having two horses in his hand (*by the bridles*), and having a witness, at the end of the first ten days; and law is due to him at the end of five days in the first ten days, and at the beginning of the middle ten days, and he shall remain within for a day and a night; and if he is not responded to then, he is to go out during the period of the middle ten days, and law is due to him at the end of five days of the middle ten days; and he shall serve notice[b] upon the defendant during the period of the middle ten days,

[b] Ir. *A notice by him.*

OF TAKING LAWFUL POSSESSION. dećmaide medonaige; no, comad is in cét lo ocus is in lo medonać ocus is in lo deigeanać, ocus muna tincear é, dul do anunn a furba na dećmaidi medonaiġi, ocus a nindatećt na dećmaide deigenaiġe, co trian ín feraind, ocus ceiṫri heić leis ocus da fiadne. Abad do cać lae re re na dećmaidi medonaigi; no comad is in cét lo ocus is in lo medonać ocus is in lo deigeanać; ocus muna tíncear é, is dul do amać, ocus abad do ar mbidbaiḋ cać lae amuiġ re re na dećmaidi deiġanaiġi; ocus muna tincear he, is dul do anund a forba na dećmaidi deigeanaigi, co ruige leṫ in ferainn, ocus oćt neić leis ocus tri fiadne leis, ocus a leṫ do gradaib flatha, ocus a leṫ do gradaib feine; ocus muna damtur dliged dó re nḋul anḋunn, noco nindligṫeć do gín co ti amać no co finna ín leís no nać leis; ocus damad cinnte leis na demta dligeḋ do re ndul andund, noco nindligṫeć do gin co tuca abad aćt tećtugad do breiṫ.

Teallach tar arta, cét teallach; aḋ na tećta tuinige; teallach da dechmad cian ramar; ad do coisleaḋ tuiniḋe.

Teallach tar arta .i. tar clad; no carbut i tellach tire cin furfocra. Aḋ na tećta tuinige .i. dligeḋ na tećtand tuinidi in feraind dosom sin. Teallach da dechmad cian ramar, .i. in techtugad berus ind a aithle in da dechmad cian remur .i. in dećmad medonach ocus in dećmad deidenach. Cian ramar .i. cian atathar occo a remur. Ad do coisleaḋ tuiniḋe, .i. is dligeḋ foxlas tuínidí in feraind dosom sin.

O'D. 409. [Ninne mac matech dfeinib luig fo tuaiḋ a crich nUlud, triur marcach do saigid carut, ocus scoirset a neocha i tir ba ceiniul doaib riam, na bo ċuinċe chota ind: co neirirt in ti ba tir, beiriḋ bur neochu as in tir. Asbert din in dias baoi la Ninne; ni mo dan duine ciad ċota in scor ar neoch sunn; na bu ar cuinċe coda and. Ni hurusa son ro ba libsi riam; ni biad and eiṁ aire. Ni ḟedutur cosin nardmad leo riam a tir. Ni

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[1] *The last ten days.*—The MS. here reads 'middle' instead 'of last;' but the sense clearly requires 'last.'

OF TAKING LAWFUL POSSESSION.

or, *according to others*, it may be on the first day, and on the middle day, and on the last day, and unless he is responded to, he is to go over *to the land* at the end of the middle ten days, and at the beginning of the last ten days, into the third of the land, he having *with him* four horses and two witnesses. He is to serve notice[a] during the period of the last ten days;[1] or *according to others*, it may be on the first day, and on the middle day, and on the last day; and unless he is responded to, he is to go out, and he is to serve notice[a] on the defendant every day outside during the period of the ten last days; and unless he is responded to, he is to go over at the expiration of the last ten days until he arrives at half (*middle point of*) the land, having eight horses and three witnesses with him, one-half of them of the chieftain rank, and the other half of the Feini rank; and unless law is offered to him before going over, it is not unlawful for him not to come out until it is ascertained *whether* the land is or is not his; and if it be certain to him that law will not be given to him before going over, it is not unlawful for him that he has not given notice, provided that he has brought the means of taking possession.

Entry over a wall, a first entry; law does not legalize possession; an entry of twice ten days on land long tilled; it is law that takes possession of the land for him *from the other party.*

Entry over a wall, i.e. over a fence; or, *according to others, to bring* a chariot in an entry upon land without forewarning. **Law does not legalize possession**, i.e. that is a law which does not justify possession of the land for him. **Entry of twice ten days**, &c., i.e. the means of possession-taking which he brings into it after the two ten days. 'Cian remur,' i.e. the middle ten days and the last ten days. **Long tilled**, i.e. long it has been with him under tillage. **Law that takes possession**, i.e. that is law which takes away the possession of the land for him.

Ninne, son of Matech, *one* of the Feini, went northwards into the country of the Uladh with three horsemen to visit friends, and they unharnessed their horses in a land which had previously belonged to their tribe, *but* it was not to demand a share therein; and the person whose land it was said to them, take away your horses from the land. Then the two who were with Ninne replied: it does not make our claim greater that we have unharnessed our horses here; it is not to claim a share therein. This is not easy for it was your own before; they shall not be *left* there for that reason. They did not know until then

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[a] Ir. *A notice by him.*

OF TAKING LAWFUL POSSESSION.

Leicset a neocha as. Carta din in ti ba tir a neocha as ar eicin. Fogellsat iarum imbi Conċobar Mac Nesa, ocus bertside fiach ecairetechta fors an ti cartus a neocha as in tir, ocus comloġ in ní cartas as, ocus do ċombi selba doib a coime sin di tellaiġ.]

Atait secht sealba la feine na gaibter athgabail, na beir ceathra ína teallach; it fir ín do loingad. Toich do boing a tobach ocus a teallach; dun cen seilb; ceall gen faithċe; tir fors a mbai fodlaig; bairleac boair; muirinis mara ina beir ceathra; uracomol cis neimid; tir da randa flath iar necuib in ċeile, a claetar poll, i curtar lia.

Atait secht sealba .i. atait seċt feraind da naisneidenn in fenechus, ocus noco dlegar athgabail is indille do brith indtib da techtugad. Na beir ceathra .i. noco berar cethra da techtugad. It fir .i. is fir ímfuilgniter no íneillgiter índtib, no do breith da techtugad. Toich do boing, .i. is toich no is luath toibgiter. A tobach .i. athgabail. A teallach, .i. techtaigṫe. Dun cen seilb, .i. cen ferann aici, amuil ata Dun araill. Ceall gen faithċe .i. amuil ata cell gabrín. Tir fors a mbai fodlaig .i. ar nar marba na hindille. Bairleac .i. loc bais imbi bo ar .i. bas loc .i. inad a mbasaiġter iat tre ar na mbo, no loc bais imbi galar. Muirinis mara .i. inis martanach bis ar muir, no ima martanach muir, amuil ata Inis cathaig .i. oiṁun a mbaṫaḋ cuicce no uaiṫi .i. ar annsatus a mbriṫ inte. Ina beir ceathra .i. noco berar cethra da techtugad cen ethar, Uracomol .i. in ní for a firaccomailter a cis do neimed, amuil ata tir mugain no rot admairi .i. tir bis la neċ, dia ndlegur ciss, ar focois-

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[1] *Inis Cathaigh.*—Scattery Island in the Shannon, near Kilrush.

[2] *Tir-Maghain.*—In C., 846, the following note is given:—Secures the rent, i.e. land which one possesses of which rent is due, and the cattle of the entry are distrained for that rent alone, i.e. the thing by which his rent is secured to the 'Nemidh'-person, such as Tir-Mudhain in Eile to the King of Caisel, or Rot-Adamair, in Ui-Conaill-Gabhra to the Coarb of Lismor in the same way, i.e. According to the ancients all along everything which is found on Fiadh-Mudhain is

that the land had been theirs before. They did not remove their horses from thence. The person whose land it was then drove their horses from it by force. They afterwards applied to Conchobhar Mac Nessa concerning it, and he awarded a fine for unlawful expulsion upon the person who drove the horses out of the land, and an equivalent of what was driven off it, andhe gave them lands in proportion to their family.

There are seven lands with the Feini into which distress is not taken, into which not cattle are brought for entry; it is men that are required. Quickly the exaction and the entry are seized upon; a 'dun'-fort without land; a church without a green; a land on which there are plunderers; a deadly place of murrain; an island in the sea to which cattle are brought; *land which* secures the rent of a 'Nemidh'-person; land which the chief divides after the death of the tenant, where a hole is made, where a stone is put.

There are seven lands, i.e. there are seven lands which the Feinechus mentions, and into which it is not lawful to bring distress in the shape of cattle into them, to take lawful possession. Not cattle are brought, i.e. cattle are not brought to take lawful possession of them (*the lands*). It is men, i.e. it is men that are suffered or required *to be brought* into them, or to be brought to take lawful possession of them. Quickly are seized upon, i.e. it is quickly or soon seizure is made. Exaction, i.e. distress (*lawful seizure*). Entry, i.e. legalized. A 'dun'-fort without land, i.e. without having land, such as Dun Araill. A church without a green, i.e. such as Cell Gabhrin. A land on which there are plunderers, i.e. on which the cattle have been killed. A deadly place, i.e. a place of death, where there is murrain of cows, i.e. 'bas-loc,' i.e. a place where they are carried off by death through cow-plague or a place of death where there is disease. An island in the sea, i.e. a deadly island which is *situated* in the sea, or at which the sea is destructive, such as Inis Cathaigh,[1] i.e. *there is* fear of their being drowned *going* to it or *coming* from it, i.e. on account of the difficulty of bringing them thither. To which cattle are brought, i.e. cattle are not brought to take lawful possession of it without a boat. Secures *the rent*, i.e. the thing by which his rent is truly secured to a 'Nemedh'-person, such as Tir-Maghain,[2] or Rot-Adamairi, i.e. land which one has, of which rent is due, for the cattle brought to

forfeited (*due*) to the King of Caisel the day on which he will assume the kingdom, because they had killed a king of Caisel. Rod-Adamair, too, there was a serpent there, and Mochuta expelled it thence, and the reward that used to be given to him for having driven it thence was everything which the Coarb of Mochuta *of Lis-mor* could find on it, the day on which he assumed the abbacy, should be his property, for it is forfeit.

OF TAKING LAWFUL POSSESSION.

Liṫer ceiṫra in teallaiġ la cis a neṁiḋ. Ni coir tellaċ ceṫra inn ar airmitin na flaṫa isa tir. Tir da randa flath .i. in tir urrannus in flaith, tir dibad; no is frecra dathgabail inbleogain, .i. condaiġ flaiṫ a cuit and .i. cona daṁair in a flaiṫus e, ocus o roinnfes in tir ndibad nocha negin do techtugad do breit ind. A claetar poll .i. clad .i. i claidter poll i comraind in ferainn. I curtar lia .i. corthe .i. iar na claide .i. in cloċ criche .i. bi poll ocus lia ocus coirṫa flaṫa ann co festar a cuit and.

.1. dia mbertar athgabail is na seċt ferannaib seo, atat cuic seoit cid do cinntaċ cid do ínbleoġain; no dono, is cuic seoit innsin do ínbleogain, ocus ní fil ní do cinntaċ co ra fasa foġail, ocus o fasbus fogail atáit cuic seoit ínn do cindtaċ. Masa innille rug do ṫeċtugad sunn, is fiaċ techtaigṫe tire co cunn co coibne, no tire cen cunn cen coibne. In comlin do indilib do berar do techtugad na ferann eile corab e berar do doinib do techtugad na ferann.

Toċombaig Ciannacht cianbruige; da ai and sin samaigar; do luid tar feart a ced teallaig; bach for fine a forcomal; imana iarum ar féineachas co hocht la iuidnige fiadnaise ban a ceteallaċ, nad reanad a ced rusa. Ceathrumad la athrach isead techta cach ban teallaig. Do luid iarum dia ceandadaig co ndiablad airme aċarraċ, losad, criathar, ceartḟuine; cuairt saigear a comnaidm la fear foirgeall fiadnaise. Is iaram athrach dian da freagra, daig dliged ceathruimṫe a ced, dliged aile a medonaċ, tulfuigeall an deiganach.

Toċombaig ciannacht .i. is toich no is luath ro toibgestar Cianaċt, ingen Fergusa Forcraid, na ferunna ro bo cian uaithe custra-

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[1] '*Neimedh*'-*person.*—C. 846, adds, "the chief retains his share there.'"

OF TAKING LAWFUL POSSESSION.

make entry shall be distrained for the rent of the 'Neimedh'[1]-person. It is not right that an entry by cattle be there on account of the dignity of the chief whose land it is. **Land which the chief divides**, i.e. the land which the chief distributes, a 'dibadh'-land; or it is a responding to the distress of a kinsman, i.e. the chief retains his share in it, i.e. he does not cede it during his reign, and when he will divide the 'dibadh'-land he is not obliged to bring the means of taking possession into it. **Where a hole is made**, i.e. a mound, i.e. wherein a hole is sunk in the division of the land. **Where a stone is put**, i.e. a pillar-stone, i.e. after its being enclosed, i.e. the boundary stone, i.e. there are a hole and a stone and the chief's standing stone there in order that his share there may be known.

If distress be brought into *either of* these seven lands, there are five 'seds' *due* either by the guilty person or the kinsman; or, indeed, *according to others*, it is five 'seds' by the kinsman, and there is nothing *due* by the guilty person until damage arises, and when damage arises, there are five 'seds' *due* by the guilty person. If it be cattle that he has brought to take possession in this instance, it is fine of lawful actual-possession of land with chief and tribe, or of land without chief or tribe. The same number of cattle which is brought to take possession of the other lands is the number of men that shall be brought to take possession of these lands.

Ciannacht took possession[2] of a distant farm; she arranged two ewes there; she passed over the mound-fence as the first entry; she challenged the tribe to come to terms of agreement with her *as to her land;* she afterwards remained, according to the Feinechus, for eight days with women witness on the occasion of[a] the first entry, *to prove* that she did not sell her first modesty. In four days after it is that every woman's entry is lawful. She went afterwards again to the head of her land with double stock, a kneading trough, a sieve, *and* a baking implement; in due order she claimed her right with a man witness. If she is afterwards responded to, she is entitled to four days for her first *suit*, to two days for her middle, *and* for her last, to speedy judgment.

Ciannacht took possession, i.e. it is soon or quickly Ciannacht, daughter of Fergus Forcraidh took possession of the lands which were lately far from her;

[a] Ir. *In.*

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[2] *Ciannacht took possession.* The following anecdote is given in C. 846 (H. 3, 18, p. 385 a), and in O'D. 740 (H. 3, 17, col. 538);—"Ciannachta, i.e. daughter of

sta; no dono, comad i Ciannoċt, ingen Connla, mic Taidg, mic Ailella Ulaim. Toċombaig .i. do caom boing. Cianbruige .i. cian mor ro mbatar cin foġurraḋ, no asar fot uaiṫi rombui tir .i. o Fenib co hUlta. Da ai and sin samaigsar .i. is amlaiḋ do roine si in samugad sin no in tordugad sin ocus di cairiġ a coraid ina laím. Do luid tar feart .i. do cuaid si tar clad in fearainn da cet techtugad. Bach for fine .i. saigim no indsaigím conad ar ferann na fine berus si in fir accomalsain. Imana iarum .i. em anad si iar sin meite sin. Ar feíneachas, .i. do reir in fenechais. Co hocht la .i. bith di ina urrnaidi re ré oċt laiṫi, ocus ceiṫri cairig do bruth le a forba na cethramṫan medonċi a haiṫli na cét cethramthan. Fiadnaise ban a ceteallaċ .i. da ban fiadnaise do breith di le a forba na cethramtan medonċi a haiṫli na cét ceṫramṫan; loġ enech do ceċtarde dib in ferand, .i. gabal ingen Mind ocus Eichne ingen ċarpait mbind. Nad reanad, .i. noco recait einiġ a cetmuindtire. Ceathrumad la atharach .i. ro bo coir dliged do damtain di is in cethramad la don cethramtain deidenaid a aithli na cethramtan medonċi; aṫarraċ feċtus aile aris. Isead techta .i. isset in so dliged caċ teċtaigṫi banda. Do luid iarum .i. iars in aile déc, .i. do ċuaid si iarum do cind a laṫa, do ċind a ferainn bodéin. Co ndiablad airme, .i. co ndiablad na airme rucuscar le reime a forba na cethramtan medonċi do bruṫ di le aṫarrach feċtas aile aris, .i. oċt cairiġ. Losad, criathar, .i. a losat ocus a criathar, ocus in ní for a certaigenn a fuine leo .i. a lec fuine ar tosaċ uile. Cuairt saigeas a comnaidm .i. in ni for a nindsoigenn a cuma nascaireċt iar cae uird .i. a cuíceal ocus a cirbolg. La fear foirgeall .i. la fer bus infiadnaise aca foirgeall; uair is rus do ċuaid menma in ugdair conabu doilgiú tri ban fiadnaise dagbail na aen fer fiadnaise. Is iaram athrach .i. is iarum, asa aithli sin, atharrach fechtus aili; ar is madia frecairter hi do reir dligiḋ comaith is amlaiḋ seo ro bo coir a denam, .i. ma tinċisin ḃes furra fo cétoir, no ar meadan, is ar ċeaṫruime a dliġeḋ di ar dus, ocus it gairdi ar gaċ inbaiḋi caċ moḋ do beir saeṫar furra,

Fergus Forcraidh and Bri Anbui who was wife to Blai Briughaidh, but whom Conchobhar Mac Nessa bought after the death of her first husband, Fergus Forcraidh. The woman wished to come to her brethren to demand land of them, i.e. Conall Cernach and Ainrirgin * *.

The daughter inquired of Sencha, son of Ailell, whether it was right for her to demand land. He said at first that it was not right for her to demand land; after which "the blotches"[1] were raised on his cheek in the night. He said on the next day that it was right for her to demand land; and he told her to bring man-possession-taking into it, so that grain-blotches were raised on his cheeks a second time. His mother then told him that the *means of* possession-taking which he should have decided should have been sheep, a kneading-trough, and a sieve.

She then took two worthy female witnesses with her, namely, Gabhal, daughter of Midhe Minn, and Cethra, daughter of Minn, and they took Minn's chariot

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[1] *The blotches.*—These were said to appear on the face of Kings or Brehons who had given false judgments. *Vide* Senchas Mór, vol. i., p. 25.

or, *according to others*, it was Ciannacht, the daughter of Connla, son of Tadhg, son of Cian, son of Ailell Olum. Took possession, i.e. fairly seized on. Distant farm, i.e. they had been for a long time before *in the possession of her brethren*, without good security; or, *according to others*, it was far away from her land was, i.e. from the Feini[1] to Uladh. Two ewes, &c., i.e. she settled or arranged them thus, she held two ewes yoked in her hand. She passed over the mound-fence, i.e. she went over the fence of the land to take first possession of it. She challenged the tribe, i.e. I hold or insist that it is on the land of the tribe (*not of strangers*) she brings this true claim. She afterwards remained, i.e. she remains quiet after *doing* thus much. The Feinechus, i.e. according to the Feinechus. For eight days, i.e. she is to be a petitioner for the space of eight days, and she is to bring four sheep with her at the end of the middle fourth day, after the expiration of the first four days. Women witness on the occasion of[a] the first entry, i.e. two women witnesses to be brought by her at the expiration of the middle four at the end of the first four days; the land is equal to the honor-price of either of them, viz., Gabhal, daughter of Menn, and Eichne, the base[b] daughter of Menn. That she did not sell, i.e. she did not sell the honor of her first marriage. In four days after, i.e. it is right to grant her *the benefit of* law on the fourth day of the last four after the expiration of the middle four; the time after that again. Is lawful, i.e. this is the law of every woman possession-taking. She went afterwards, i.e. after the twelfth day, i.e. she afterwards went to the head of her own property, to the head of her own land. With double stock, i.e. double the stock which she had brought with her before the expiration of the middle four, are to be brought by her another time again, i.e. eight sheep. A kneading-trough, a sieve, i.e. her kneading-trough and her sieve, and along with them the thing by which she adjusts her baking, i.e. her baking flag (*griddle*) first of all. In due order she claims her right, i.e. the thing by which she sues her security in proper order, i.e. her distaff, and her comb-bag. With a man witness, i.e. with a man who is qualified to bear witness, to give testimony; for according to the intention of the author *of this law* it would not be more difficult to find three female witnesses than one male witness. Is afterwards, i.e. it is afterwards, after this, one other time; for if she be responded to well according to law, this is the way it should be done, i.e. if she be responded to at first, or in the middle, it is after four days that law should be ceded, at the first *entry*, and it is shorter every time, the more she is put to trouble[2], until judgment

[a] Ir. *In*.

[b] Ir. *Chariot*.

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with them. And she took two sheep on the first occasion, and four on the fourth day; and eight on the eighth day; and she went in this manner at once with two sheep and two female witnesses with her, and remains afterwards. She brought four sheep on the eighth day, and eight on the eighth day, and thus took the possession."

[1] *From the Feini*. She had to come a long distance from the territory of the Feini, in the south, to the country of Uladh in the north.

[2] *Put to trouble*.—The following explanation is given of this passage in O'D. 410:—"If she is responded to at once or in the middle *term* it is in four days that her right is to be ceded to her in the first entry, and it is shorter every term the more trouble is brought upon her, so that it is "a judgment of precinct" to herself, i.e. that the term of its arrival to them, i.e. a pledge in the precinct, or five days to solicit the defendant, i.e. five others if at the middle notice her offer of law was responded to, or she is to remain for a time, for she is nearer to the actual possession each time."

OF TAKING LAWFUL POSSESSION.

conit fuigill di; maiġin fadeoiġ iarum. Dliged cethruimṫe .i. ro bo coir dligeḋ di a forba na cethruimṫe medonċi a haiṫli na cet cethruimṫe. Dliged aile a medonaċ .i. ro bo coir dligeḋ di a forba aile don cethramtain deidenaid a aiṫli na cethramtan medonċi. Tulfuigeall an deiganach, .i. tal ata a fuigell uili di i forba na cethraimṫi deidenċi, .i. a crod uile do breith ind.

Mara cindti lais na demtar dligeḋ do, islan do dula anunn co na crud uile. Maru cindti lais co ndemtar, is lan fiach techtaigti uad; cona ḋe sin ata, arad teora ndechmaḋ, ín ínbaid is cunntabairt lais i ndemta no na demta dliged do, .i. tall bis fris in re bid oc cuinnge fecheman in feċt deiġinaċ, oca tiġ immurro in feċt tuiseċ ocus meḋonaċ.

.i. caċ uair is abad teora ndeċmad do beraid na fir, is abad teora ceathramtan do beraid na mna, ocus cutruma deċaib do beraid na fír ocus do cairaib do beraid na mna; ocus ín comfad tiagaid na fir is in ferann, is in comfad sin tiagad na mna. Caċ uair is mna beraid in teċtugad is abaḋ teora ceathramṫa do berad ar ín mbidbaiḋ ann, ocus is amlaiḋ do berad .i. abaḋ do tabairt doib ar ín mbidbuiḋ caċ lae re re na ceathraimṫe; no dono, ceana, comad is in ced lo, ocus is in lo meḋonaċ, ocus is an lo degeanaċ; dul dí amaċ a forba na ceaṫramtan tuisíge, ocus a nindíteċt na ceathraman medonaiġe tar feart ín feraind, ocus da cairiġ le ocus ban fiaḋnaise le, ocus beṫ dí ann re la co naiḋci, ocus muna tincar hí dul dia ṫiġ ocus beṫ di ann re re na ceathramtan medonaiġe, ocus abaḋ do tabairt caċ l[a]e ar ín mbidbuiḋ re re na ceathramtan medonaiġe; no, comad as in céd lo, ocus is in lo medonaċ, ocus is in lo deiganaċ, ocus dul di amaċ ann sin co trian ín feraind, ocus ceiṫri cairiġ le ocus da ban fiadnaise, ocus beṫ di annside re la co naidċi, ocus muna damar dligeḋ dí is dul dí dia tiġ ocus beṫ di ann sin re re na ceathramtan deiginaiġe; ocus abad do tabairt caċ lae dí ar ín mbiḋbuiḋ re re na ceathramtan deigíncaiḋ; no, comaḋ as in céd lo ocus is in ló deiganaċ dul dí amaċ co ruige leṫ ín feraind, ocus hoċt cairiġ le,

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[1] *For her last, to speedy judgment.* O'D. 411, adds here, "i.e. yonder (*within the land*) all the decision is at the expiration of the last four days, unless law has been ceded to her until then. Ciannachta, daughter of Connla, son of Teige, son of Cian, sued for seven 'Cumhals' for the reward of her hand-labour."

OF TAKING LAWFUL POSSESSION.

is *passed* for her; *it is* *er* precinct finally afterwards. She is entitled to four days, i.e. it is right to cede her law at the expiration of the middle four days after the first four. She is entitled to two for her middle, i.e. it is right to cede her law at the end of two days of the last four after the middle four *had been attended to.* For her last to speedy judgment,[1] i.e. within all the judgment lies for her at the end of the last four days, i.e. she is to bring all her cattle into it.

If it be certain to him[2] that law will not be ceded to him, it is guiltless in *him* to go over with all his cattle. If it be certain to him that it (*law*) will be ceded, it is full fine of lawful actual possession that it is to be paid by him; whence is *derived the rule of law,* "*let* a notice of thrice ten days *be geven,* when it is doubtful to him whether law will be ceded to him or not ceded," i.e. within the territory he is *tarrying* while he is supplicating the defendant on the last occasion, but at his own house on the first and middle occasion.

That is, every time that the men give notice of thrice ten days the women give notice of thrice four days, and whatever number of horses the men bring it is the same number of sheep which the women bring; and the extent to which the men enter into the land, is the same extent to which the women enter. Every time that it is women who bring the *means of* taking possession it is a notice of thrice four days they serve on the defendant, and it is thus they serve it, i.e. they serve notice on the defendant every day during the space of the four days; or, indeed, *according to others,* it is on the first day, and on the middle day, and on the last day; she is to go out at the expiration of the first four days, and in the beginning of the middle four days *she is to go again* over the mound-fence of the land, having two sheep with her and a female witness, and she is to remain[a] there for a day and a night, and unless she is responded to she is to go to her house, and to remain there during the space of the four middle days, and to serve notice every day on the defendant during the period of the four middle days; or, *according to others,* it may be on the first day, and on the middle day, and on the last day, and she is to go out then as far as the third of the land, having four sheep with her and two female witnesses, and she is to remain there for a day and a night, and unless law is ceded to her she is to go to her house and remain there during the space of the last four days; and she is to serve notice every day on the defendant during the space of the last four days; or, *according to others,* it may be on the first day and on the last day she is to go out as far as half the land, having eight sheep with

[a] Ir. *Be.*

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[2] *To him.* There is some error or defect in the context here.

OF TAKING LAWFUL POSSESSION. ocus trí banfiadnaise, ocus bet di ann re la co naidċe. Ma damar dligeḋ di annseis, is dligeḋ do denam doib mun ferann; ocus muna damar dligeḋ dí, islan dí gín co ti, aċt a crod uili do breiṫ índ anund a forba na teora ceathramṫa; ocus gemad re ndul anund bud chíndte na demta dligeḋ dí gin co tuca dligeḋ do neaċ, no dligeḋ teċtaigte íme, aċt dul anund dí cona croḋ ocus co na muínnter fo cétoir.

O'D. 410, 411. [Arraḋ naile o mnaib teċt is tir i foircenn na se laithe; as a hocht samlaid, ocus anad cetre la; teċt anunn, iarsuidiuga, is aile dec samluid.

Arraḋ treisi a ndechmuide do beruit na fir im a ferannaib; dul doib anunn i forḃuiġ na cet dechmaiḋe dar clad in feruinn, ocus da ech leis, ocus fiadnuisi dia mbi logenech in ferunn; ocus taiḋeċt da tiġ re re na dechmuidi meḋonċe, ocus dul ann anunn ina forbaiḋ co trian in feruinn, ocus ceithre heich lais, ocus a sgur is in feronn, ocus da fiadnuisi .i. curub logenech gach fer dib in ferunn; taideċt do da tiġ re re na dechmaiḋe deiḋenċe, ocus dul anunn inu forbaḋ in comat bus aill leis, ocus oċt neich leis, ocus triur fiaḋun darab loġ einech cach fer dib in ferund; ocus bid ṫall no co ndamtur dliged do umun ferund.

Is i deṫbir in baintellaiġ ocus in feartellaiġ, .i. anus dechmuide dfir anus ceṫruime do mnaoi, anus fer fiadnuisi do fir anus ban fiadnuisi do mnaoi .i. cus in cethruime deiḋenuiġ fer fiadnuisi indti fein; anus eich dferuib is caorid do mnaoi. In orba cruid no sliasta a mathar berus sisi in teċtugad sin, ocus ni fuil mac ann; no, is a ferunn athur ocus senathur, ocus ni fuil comorba ferrḋa ann.]

Beartaid Senċa cetbrethach bantellach ar fertellach, comdar ferba fulachta for a gruaide iar cilbreṫaib.

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[1] '*Cruid*'-*land.* Over the 'd' of the word 'cruid' is written the usual contraction for 'no,' 'or,' and the letter 'b,' suggesting that the word might be 'cruib,' 'a hand or fist.'

OF TAKING LAWFUL POSSESSION.

her and three female witnesses, and she is to remain there for a day and a night. If law be ceded to her then, they are to make *regulations according to* law concerning the land; and if law be not ceded to her, it is safe for her though she should not come, but *she is* to bring all her cattle over at the expiration of the thrice four days; and even though it should have been certain before going over that law would not be ceded to her, though law had not been given to anyone, or law of actual-possession touching it, but she is to go over with her cattle and with her people at once.

A notice of two days *is to be given* by women that they will enter[a] upon the land at the expiration of the six days; it is accordingly in eight days, and a stay of four days; they go over accordingly in twelve days.

The men give notice of thrice ten days touching their lands; at the expiration of the first ten days they shall go over the mound-fence of the land, *each* having two horses with him, and a witness who has honor-price *equal to the value* of the land; and he is to return to his house within the space of the middle ten days, and at the expiration thereof he is to go over as far as the third of the land, having four horses with him, and he unharnesses them in the land, and *he has* two witnesses; i.e. each man of them has honor-price *equal to the value* of the land; he is to return to his house *and remain there* during the period of the last ten days, and at the expiration thereof he is to go over *into the land* as far as he may think proper, having eight horses with him and three witnesses, each man of whom has honor-price *equal to the value* of the land; and he shall remain there until law is ceded to him concerning the land.

The difference between a woman possession-taking and a man possession-taking is this, that which is ten days for the man is four for the woman, *and* what is man witness to the man is woman witness to the woman, i.e. until the last four days in which man witness *is required for both;* what is horses for men is sheep for a woman. Into the 'cruid'-land[1] or 'sliasta'-land of her mother she brings this possession-taking, and there is no son; or *according to others,* it is into the land of a father or a grandfather, and there is no male heir.

Sencha adjudged in his first decision woman possession-taking as man possession-taking, so that there were blotches raised on his cheek after *having passed* biased judgments.

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[a] Ir. *To come.*

Hicsai Brig a firinde a firbreathaib; isi conmidiḋar banteallach, comdar fearba falguide for a gruaidaib iar firbreathaib.

Beartaid Senċa .i. ro breithnaigustar Senċa asa cet breithemnus in techtugad banda amuil in techtugad ferda. **Comdar ferba** .i. co ro imfuilngiter na bolga for a gruaidib iar mbreith na claenbreṫ .i. iar claen brethib.

Hicsai Brig .i. ro icustar Brig ingen tSencha sin do reir firindi a firbreith. **Isi conmidiḋar** .i. isi ro meisemnaigestar in teċtugad banda. **Comdar fearba** .i. cor tuloigsetar .i. cor loigsetar atai na bolga for a gruaidib iar mbrith na firbreṫ; ocus is as sin gabair ce ro neich duine aer do neoch, no fogail aile rus, o ra gena naċ coibdelach do molaḋ condigair iar sin, no o gebus iman fogail sin, coma inand do ocus do neich bodein. **Falguide** .i. folgithi.

.i. is i brech rucustar Seanċa in teċtug[ad] banda amuil in teċtug[ad] ferda, ocus ro ergestar bolga for a gruaidib; ocus ro icustar firinne Brige esec. Ocus isi breath ruc, a teachtug[ad] fein dona mnaib. Acus is as sin is follus cid foġal no fuaibread duine do denam, o bus cara no coibdeileaċ do no gebad uimpe, conad inann do ocus no gabad budein impe.

Inlolaid seichidar sealba techtais a cond a cenal. Bach be degabail, cindis barachtaiġ criċe, coirsear ni bia o besaib moġa na fondaid raite. Saerta la fine a forcomol, fo bith banadba taisic.

Inlolaid .i. ro eillgestur .i. ro ineillgistar Siṫir, ingen Mind, ocus Gabair, ingen carpait Mind na feranna ro teċtaigistar codnaiġ a

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[1] *Himself.*—In O'D., 413, the reading runs somewhat differently, as follows:—
"So that the blotches disappeared from his cheeks after the passing of the true judgment by her, and from this is derived *the custom*; that if a man should pass a false sentence, whenever a friend or a relative of his should pass the true judgment after it, it is the same to him as if he himself had passed it, and it frees him from the fines of false judgment after it, i.e. as he is bound to pay fines for him to another creditor, so is he to have the benefit of the judgment delivered in this case.

[2] *Seither.* For 'Seichidar' of O'D. 1263, O'D. 413, reads 'Seithir,' and C. 848, 'Sithir.'

OF TAKING LAWFUL POSSESSION.

Brigh in her truth by her true judgments cured him; it is she that established the woman possession-taking, so that the blotches on his cheeks were concealed after the true judgments *were passed*.

Sencha adjudged, i.e. Sencha adjudged in his first judgment that the female possession-taking should be the same as the male possession-taking. **So that there were blotches**, i.e., so that the blotches were raised on his cheeks after having passed the biased judgment, i.e. after partial judgments.

Brigh cured, i.e. Brigh, daughter of Sencha, cured him according to the truth of her true judgment. **Is it she that established**, i.e. it is she that concerted the female possession-taking. **So that the blotches**, i.e. that they sunk down, i.e. that the swelling of the blotches disappeared after the passing of the true judgment; and hence is derived *the rule, that* though a person may compose a satire, or do other injury to another, if any relative of his should compose a eulogium after that, *the latter will nullify the satire*; or if he should make good the injury, that is the same as if he had done so himself.[1] **Concealed**, i.e. hidden.

That is, the judgment which Sencha passed was that the female possession-taking should be like the male possession-taking, and blotches did rise on his cheeks; and the truth of Brigh cured him. And the judgment she passed was that the women should have a possession-taking of their own. And from this it is evident that whatever damage a person attempts to do, if a friend or a relative should undo it, it is the same as if he himself should repair it.

Seither[2] claimed the lands which the chiefs of her tribe had taken possession of. She was a woman of two races, who was entitled to the land, *and* she sought that it should not be after the custom of slaves, or dispossessed persons. She was freed by her tribe from obligation, because female possession reverts.

Claimed, i.e. she challenged, i.e. Sithir,[3] daughter of Menn and Gabhair, the base[a] daughter of Menn, claimed the lands which the chiefs of her tribe had taken

[a] Ir. *Chariot.*

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[3] *Sithir.*—In C. 848, and in O'D. 413, the following note is given:—

"Sithir claimed the lands, i.e. the daughter of Fergus, son of Ledi, who was married to[b] Anluan, son of Madach, *one* of the Feini, and she had a son by him, Nia MacAnluain. Sithir claimed a possession from her brothers, i.e. from Ailild Lethdherg and from Aengus Aigle, i.e. the face of that Ailell was half red, and it was in Aigle Aengus was fostered, i.e. Meitheas in the territory of Uladh."

[b] Ir. *With.*

Of taking lawful Possession.

ceneoil. Techtair .i. ro corrṫiġistar, no rola corṫa ind. Bach be degabail .i. feichim no indsaigim conad ben ro cindustar o dib gablaib, is de a athair dulltaib ocus a mathair do féinib Temrach. Barachtaiġ criċe .i. ba reidirech isi ar in criċ ro ċarustar, no ro ba cartanach le, .i. rob indrisgti for in crich ro carustar. Ni bia o besaib moġa .i. noco biad fo bafis gnae no aibind oc fuba ocus oc ruba da cind uile, .i. ní biaṫfa aiġi fine na neċ itir, aċt a duṫraċt budein, .i. ni biaṫfa siu ocus tall i cinn tire .i. ni bia cis na congbail fuirri, na biathaḋ aideḋ tuaiṫi na duna, aċt tindtaither saeth. Na fondaid raite .i. noco fonnabṫa as no hi for ín rot can a leṫ di cen fuba ocus cen ruba. Saerta la fine .i. soraidter a fir accomol a ferand na fine amlaid sin. Fobith banadba tairic .i. fon fath is adba dar coir aisec in ferainn hi iar sin, im a tabairt uile di co fuba ocus co ruba, no im a leṫ di cen fuba ocus cen ruba; no fon fath is adba dar coir aisec in ferainn uaithi iarsna re, .i. ro bui trebuiri fri haisec.

Doiġin ar a feisear besu tellaiġ. I teora deachmadaib dliged, mad fris gais comairser; o ta cumal co trichad, aḋ naen bescna tellaiġ cid diabal fod foirge.

Ḋa each a laim leath aer sealba, fiadnaise indric, foircis dliged cuice do dliged, dianad be feineachas. Muna be feineachas, tellais iarsuidiu ímíd raínd ín dechmaid, ceithri heich ailius scurtair saer sealba deige fer fiadan lat; randta cosmailis; treise do dliged dia nod be féinechas. Muna be feineċus, tellais iarsuidiu a ndige and deċmad, ocht neich ailear im treib toruma, treige fer fiadan lat do gradaib féine. Rannta cosmailius. Tul fuigeall uadaib, dianad be feineachas. Munad be feineachas

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[1] *Shall not feed.*—The MS. here has only 'biaṫf̄' which Dr. O'Donovan lengthened out into biaṫfa; 'f' with the same mark of contraction elsewhere is lengthened out into 'for.'

[2] *At the border of the land.*—For 'Leath aer sealba,' of the text, the fragments of this tract found in O'D. 414, 744; and in C. 850, have "Leṫ saor selba, i.e, an half free possession." The different MSS. vary as usual in the spelling of the words.

possession of. Taken possession of, i.e., erected boundaries, or they placed pillar-stones there. She was a woman of two races, i.e., I hold or insist that she was descended from two races, her father being of the Ulta, and her mother of the Feini of Teamhair. Entitled to the land, i.e., she was directly entitled to the land which she loved, or which was dear to her, i.e., she was entitled justly to the land which she loved. That it should not be after the custom of slaves, i.e., that she should not, according to the pleasant or delightful knowledge, be bound to perform the services of attack and defence for the entire of it, i.e., she shall not feed[1] the head of the tribe or any other person, but according to her own wish, i.e., she shall not feed here and there for the sake of the territory, i.e., there shall be neither rent nor keeping upon her, nor refection for the guests of the territory nor of the 'Dun'-fort, but every impost is removed *from her*. Or dispossessed persons, i.e., she was not removed from it upon the road without receiving the one-half thereof without *being obliged to perform* the services of attack and defence. She was freed by her tribe, i.e., she was freed from the true obligation of the lands of the tribe in that manner. Because female possession reverts, i.e., because it is a property of which the land is to be restored in truth, for giving it all to her with the *obligation of performing the* services of attack and defence, or of giving the half of it without *performing* the services of attack and defence; or because it is a property of which the land is to revert from her after the term, i.e., there was security for restoring it.

Doighin, dost thou know the customs of an entry? In thrice ten days law is due, if thou consult wisdom; from *land of the value of* one 'cumhal' to thirty, it is one custom of entry, though the length of the 'Foirge'-measure should be doubled.

Two horses in hand at the border of the land,[2] *with* pure witness, he demands that his legal right[a] be ceded to him, if there be 'Feinechus.' If there be not 'Feinechus,' he returns until the middle of the ten days, when he should bring four horses which are unharnessed in the free land in the presence of[b] two male witnesses. There is a similar division; *in* three days *afterwards* his right law is to be ceded to him, if there be 'Feinechus.' If there be not 'Feinechus,' he returns after this at the end of ten days with eight horses which he is obliged to have to relieve the house, with three man-witnesses of the 'Feini' grade. There is a similar division. If there be 'Feinechus,' speedy judgment is passed in his favour. If there

[a] Ir. *Law.*

[b] Ir. *With thee.*

Of taking lawful Possession.

teċta tuinide; i log do airgrean co feis, conadoġ, co tein co naitreib, co toruime ceathra, acht tir cuind cetcoraig, no imtelgad mbroga noch is nemead. Is ar in teallach so do bongar cac sealb la feine.

Crui tire do tellach, inaenan main moaiġtear i setaib; do rirtar, mad la buar buire, cumal ase slaindter. Munab fo seilb techta tir gen cund gen coibne, dilsi buair berair.

Doiġin ar a feisear .i. a mac; ar Nin re Doigen, co feiser siu no co roib acut basis gnae no aibind in teċtaigṫi do reir in fenechais, .i. Nin do raid ann so fri Doigin .i. fri mac fir gaiṫ dUlltaib. I teora deachmadaib, .i. is na teora dechmaid ata dligeḋ in teċtaigṫe, no as a aiṫli na teora ndechmaid dlegair de a crod uile do breiṫ ind. Mad fris gais, .i. madia coimris a friṫgais fein, no dia nimcomaircter re gaeṫaib, is amlaid seo do dena. O ta cumal .i. o ta airneis dam don tir cumaile co ruici in ferann is fiu triċat cumal, ocus cindteċ ar eicindtech sin, .i. cid tir cumaile cid tir triċait cumal, ised oen bescna ann so fuil do tellach. Aḋ naen bescna .i. is inann do reir basisa gnae no aibind dligeḋ a teċtaigṫi. Cid diabal fod foirge .i. cid diablad forge ar fut bes ann, is aṁlaiḋ sin bias.

Da each a laim .i. da ech i laim conici leṫ eochair in feraind, ocus noco saer doib a scor annsidi, ocus beit cuic seoit dia scurtar fo cetoir im ín tire .i. leth suir na sealba, no is in sein [seilb] lethsuir, im tomailt a feoir nama, lansoer imurro in sealb do melar fer ocus arbur; letsaor imurro in tsealb na tomelar aċt fer no arbur nama. Leath aer .i. itir a clad ocus aar. Fiadnaise indric .i. fiadnaise indraic aca firechain cona dliġtech do ċuaid isin fearand. Cuice do dliged, dianad be feineachas .i. madia roib riar dliġiḋ in fene-

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[1] *Food.*—'tein' may also mean 'fire.'

[2] *Doighin.*—A somewhat different commentary is given in O'D., 413, as follows:—"Doidhin, said Nin to her son, to Doidhin, that thou mayest know the good or pleasant knowledge of the possession-taking; or Doidhin was the name of the Brehon. She was a female 'Coarb;' and she obtains all her land with obligation to perform services of attack and defence for a time, and the half of it without obligation to perform service of attack and service of defence." "Ara feisear" means either, "dost thou know," or "that thou mayst know."

be not 'Feinechus,' lawful possession *is given;* its price is to be offered with sheds, cows, food,[1] habitation, with attendance of cattle, except in *the case of* the land of Conn Cetcorach, or *of land* devoted to the support of a mansion which is a 'Nemeadh'-person's. It is by means of[a] this *kind of* entry every land is seized on by the Feini.

[a] Ir. *Out of.*

In an entry on land which has fences, it is not equally the property increases in 'seds'; it is decided if it be with kine he takes *the possession,* it is a 'cumhal' that is mentioned. Unless it be in a lawful possession in a land without a chief, without a tribe, the cows which are brought are forfeited.

Doighin[2] dost thou know, i.e. her son; said Nin to Doighin, that thou mayest know, or that thou mayest have pleasant or delightful knowledge of lawful possession-taking according to the Feinechus; i.e., Nin said this to Doighin, i.e., to a son of a wise man of the 'Ulta'. In thrice ten days, i.e., in three times ten days the legal right of possession is *to be conceded,* or it is after the three ten days it is required of him to bring all his cattle there. If thou consult wisdom, i.e., if thou consult thy own wisdom, or if thou confer with wise men, it is thus thou wilt do. From *land of* one 'cumhal,' i.e., as I am treating of *land from* the land of *the value of* one 'cumhal' to the land which is worth thirty 'cumhals, and this is *a case of* "certainty for uncertainty," i.e., whether it is a land of *the value of* one 'cumhal,' or a land of *the value of* thirty 'cumhals,' it is one custom that is for the entry. It is one custom, i.e. the law of the possession is the same according to the pleasant or delightful knowledge. Though the length of the 'foirge'-measure should be doubled, i.e., though the doubling of the 'foirge'-measure should take place throughout, it is so it will be.

Two horses in hand, i.e., *he is to have* two horses, *held by the bridles,* in his hand until he reaches the border of the land, and it is not free for them to unharness them there, and if they be unharnessed at once in the land there will be a fine of five 'seds,' i.e., half the freedom of the land, or it is the old land half free, for eating its grass alone, but fully free is the land of which the grass and the corn are eaten; but the land is half free of which the grass or corn alone is eaten Border, i.e., between the mound and the tillage. Worthy witness, i.e., pure witness to see that he entered lawfully into the land. That his legal right be ceded to him, if there be Feinechus, i.e., if the usage of the law

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In C. 849, the reading is as follows:—"Dodin, dost thou know the customs of a making entry *on land?* Ninè said these words to his son. A wise man of the Ultonians said so to his son, i.e., Dodin, to teach wisdom unto him; so that he said, Dodin, said he, dost thou know the customs of the making entry *on land* with the Feini? What law does he mention here? Answer, the law of cattle possession. Query, what is the right form of this law, &c.?"

OF TAKING LAWFUL POSSESSION.

chais do damṫain do, ro bo coir dligeḋ do forba cuicṫi don deċmaid medonaid a haithli na cet dechmaid. Muna be feineachas .i. mana roib riar dligiḋ in fenechais do damtain do. Tellais iarsuidiu, .i. tall ata les duit iars aníada sin a med o roind in da deċmad, .i. a forba na deċmaidi medonċi ocus i nindataċt na decmaidi deidenche. Ceithri heich .i. ceithri eich airiltnigus no dligus do brith leis ind i forba na deċmaidi medonċi, .i. isaer doib a scor isin ferann annside, ocus noco saer romaind. Deige fer fiadan .i. deidi dferaib isin fiadnaise do breith leat .i. treidi. Randta cosmailis .i. urrannṫair cosmailus na firindi accu, no in firindi acu co cosmail. Treise do dligeḋ dia nod be feinechas .i. madia roib riar dligiḋ in feneċais do damtain dait, robu coir dliged do i forba treisi don deċmaid deidenaig, a haithli na deċmaidi medonċi, ut supra .i. amail ata romaind, ocus teit a nairiṁ araiḋ, muna tartar for fuilled fris gurub deċmad.

Arad naile o ṁnaoi, ocus tesus is tir a foircend na haoile, ocus anaḋ se la iarsuiḋiu, ocus teċt is tir i foircenn na se la. Is a hoċt saṁlaid ocus anaḋ ceiṫri la, teċt anund iarsuiḋiu is aile déc samlaid dona.

Tellais iar suidiu, .i. tall ata leas dait in adbul cindíud na tri ndeċmad. A ndige and deċmad, .i. i forba na deċmaidi deidinċi. Ocht neich aileas, .i. oċt neich is e ní airillniges no dliges do breith leis co treib no ind ín feraind da toiriċin. Treige fer fiadan, .i. treidi dferaib isin fiadnaise do brith and. Lat do gradaib feine, .i. let do na gradaib uiled do reir in fenechais. Rannta cosmailius .i. ut supra. Tul fuigeall, .i. madia roib riar dliged ín fenechais do damtain duit tall, ata fuigeall uili dait i forba na deċmaidi deidenċi. Munad be feineachas, .i. ut supra. Teċta tuinide, .i. teċtaigter tuinídi ín feraind dait log biṫ aca firdechsain co dligṫec ris in re sin. Co feis, .i. co laigi doib ann, .i. co mbíud cotlod. Conadoġ, .i. in tessred. Co tein, .i. a hairbiathaḋ na ssreidi sin. Co naitreib, .i. co treib anait do tigib do denam doib. Co toruime .i. cethra do breiṫ lat ind do toirithin. Acht tir cuind cetcoraig .i. is e ceta ruc trian diba a neire, .i. in ferann ar ar laesetur na codnaig a cet curu ceillsine .i. tir dibad coitcind, uair noco neicen arad teora ndeċmad imesein, na techtugad do breiṫ indti, aċt a roind fo cetoir, no comairium do briṫ indti; aċt in ferand do berar ar óin no ar fochraic, is ind berair in teċtugad. No imtelgad mbroga, .i. dun cen seilb no cell cen faiṫċi oc na bi brug dia nimtelgud, .i. in ferann ac na bi faiċṫi re breiṫ cethra ind da teċtugad, aṁuil ata Dun Araill, uair is daine

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[1] *Two male witnesses.* In O'D. 414, the following is added:—"The honor price of each of whom is equal to the value of the land."

[2] *Three.* 'Treide' is an underlined gloss apparently by the same hand as that which wrote 'deide' over the line.

[3] *Twelve days.* This paragraph is found in the lower margin of col. 2, page 7, of the MS. E. 3, 5, in the hand of one Donnchadh, dated at Moin na caor, 1542.

[4] *The land of Conn Cet-Corach.*—In C. 851, this is explained "Tir riġ, the land of a king." In O'D. 415, it is called the 'dibadh'-land of the 'daer-stock tenant,' and it is there added, "the force of 'aċt' 'except' here is, it is not cattle that are brought

of the Feinechus be granted to him, the *benefit of* law should be given to him at the end of five days of the middle ten after the first ten. If there be not Feinechus, &c., i.e., if the usage of the Feinechus law has not been ceded to him. He returns after that, i.e., within thy welfare lies after that point of time, from the division of the two tens, i.e., from the end of the middle ten and the beginning of the last ten days. Four horses, i.e., he is bound or obliged by law to bring four horses with him into it, at the end of the middle ten days, i.e., it is free for them to unharness them in the land in this case, and it is not free in the former instance.[a] Two male witnesses,[1] i.e., to bring with thee two men to bear testimony, i.e., three.[2] There is a similar division, i.e. they divide what seems like the truth, or they have the truth to all appearance.[b] In three days to be conceded to him, if the Feinechus be submitted to, i.e., if the custom of the law of the Feinechus be ceded to by thee, it is right to give him *the benefit of* the law at the end of three days of the last ten, after the middle ten, ut supra, i.e., as it is before, and the notice goes into the reckoning, unless it is given as an addition *mentioned in the notice* to it that it is ten days.

A notice of two days *is given* by a woman, and she comes into the land at the end of the two days, and there is a stay of six days after this, so that she enters upon the land at the expiration of the six days. It is thus eight days and a stay of four days, she goes over after this, it is thus twelve days.[3]

He returns after this, i.e., within *the territory* thy welfare lies concerning the full determination of the three ten days. At the end of ten, i.e., at the expiration of the last ten days. Eight horses he is obliged to have, i.e., eight horses is what he is bound or obliged by law to bring with him to the house or end of the land to regain it. Three men witnesses, i.e., three men as testimony to be brought thither. With thee of the Feini grade, i.e., with thee, of the grades which are according to the Feinechus. There is a similar division, i.e., ut supra. Speedy judgment, i.e., if the custom of the law of the Feinechus be ceded to thee, within *the territory*, every decision lies for thee at the end of the last ten days. If there be not Feinechus, i.e., ut supra. Lawful possession, i.e., the possession of the land becomes legal for thee when thou hast been legally viewing it during that time. With sheds, i.e., for their lying there, i.e., that they may sleep. With cows, i.e., the cattle. With food, i.e., the feeding of that cattle. With habitation, i.e., to erect a habitation of houses for them in which they may remain. With attendance, i.e,, to bring cattle with thee into it for relief. Except the land of Conn Cetcorach,[4] i.e., he was the first that obtained the third of the 'dibadh'-land in Eirin, i.e., the land on which the sensible adults sent their first obligations of tenancy, i.e., a common 'dibadh'-land, for a notice of three ten days is not necessary concerning it, or to bring requisites for taking possession into it, but it is to be divided at once, or equal stock is to be brought into it; but *as to* the land which is lent or let for rent, it is into it the requisites for taking possession are brought. Support of a mansion, i.e., a 'dun'-fort without land, or a church without a green, which has no mansion to support it, i.e., the land which has no green into which cattle might be brought to take possession of it,

[a] Ir. *Before us.*

[b] Ir. *Similarly.*

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here to take possession of it, but persons, i.e., a 'dun'-fort without land, or a church without a green." 'Conn Cet-Corach,' appears to mean, "Conn of the first contract," i.e., who put the first contract, or engagement ('cor') upon the tenant.

OF TAKING LAWFUL POSSESSION.

berar da tectugadside. Noch is nemead, .i. no in ferand asa firacomailter cis do neimed, amuil ata Tir Mugain no Rot Adomairi. Is as in teallach so, .i. is as in teċtugad sa toibgiter cach ferann í mberar cethra da teċtugad do reir in feneċais.

Crui tire, .i. tellach is in tir im atait cruí. Inaenan main .i. ni hínand mogaigus maine do neoch tellach i tir co cruib ocus i tir cen cru .i. noco noen inand lim do beir mougad maineċ ar fer in ferainn im ic set rus im teċtugad in ferainnd co cruib ime aici ocus cen cruib ime, aċt is mo do berair co cruib ime aici; no noco naenan inand lím do beir mougad ar in fer berus techtugad do breith ind co cruib ech aici ocus cen cruib ech, aċt is mo do berair co cruib ech aici. Mad la buar, .i. mad leis in buar do ní in ag boir berus im techtugud. Cumal a se slaindter, .i. aisneidter cumal se mbo a teċtugud tire cen cunn cen coibni. Munab fo seilb, .i. man abar iseḋ a ferainnd bodein ro teċtaigestar he, is ann ata sin. Gen cund, .i. cen cunn coibialussa. Gen coibne, .i. cen coibintedais .i. naem ocus firen. Dilsi buair berair, .i. dilsi in buair berair is in techtugud nindligteċ re taeb na cumaile romainn.

.1. Cumal se mbo so, ocus is cuma ata sin a techtugud tire co cund co coibne, no cid a teċtugad tire gen cunn gen coibne; no dono, is cumal se mbo i teċtugad tire cen cunn cen coibne, ocus cumal tri mbo isin techtugad aili.

Mad tar lan íme do na huaislib, ocus is tir gen cunn gen coibne, is cumal ocus dilsi nairme. Mad ar leiṫ íme, is tri cethruimṫe cumaile ocus tri cethruimṫe na hairme. Mad gein íme itir, is leṫ cumal ocus leṫ nairme. Airem nama do comfogail, amuil ro raidsium, do na hislib, ocus leṫ cumal mad a cain. Mad tir co chund co coibne, is dilse na hairme co cumal dar lan íme, tri ceathraimṫe tar leṫ íme ocus leaṫ cen íme itir; ocus is inann ata so do islib ocus do uaislaib.

Mad ansis do narob tir co cunn, is leṫ fiaċ uad, no amuil tir co chund.

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[1] *Which is a 'Nemheadh'-person's.* The reading in C. 851, is "no cis neimiḋ, or the rent of a Neimidh, i.e., land of which it is due."

[2] *With fences around it.* 'cru ime,' may mean also "a fence, *which is* a paling."

[3] *Of horses.* The word 'ech' was not translated by Dr. O'Donovan: it is here rendered "horses," its meaning in modern Irish, a meaning also found frequently in the Brehon Laws—vid. C. 1,248, 1,990; O'D. 2,085. That horses were required for taking possession in some cases is evident from this and several other passages in the present tract.

such as Dun Araill, for it is persons that are brought to take possession of it. Which is a 'Nemheadh'-person's,[1] i.e., or the land by which the rent of the 'Neimhedh'-person is truly secured to him, such as Tir Mughain or Rot Admairi. It is by means of this entry, i.e., it is by this form of taking possession every land is taken possession of into which cattle are brought to legalize the possession according to the Feinechus.

Land which has fences, i.e., an entry on the land about which there are fences. It is not equally the property *increases*, i.e., it is not equally property increases for one *who has made* entry into a land with fences and into a land without fences, i.e., I do not deem that thing the same which brings increase of wealth to the owner of the land as to paying 'seds' to him for taking lawful possession of the land with fences around it[2] and a land without fences around it, but more is given for land with fences around it; or, I do not deem that the same which brings increase to the man who brings means of taking possession into it with cattle of horses and without cattle of horses,[3] but it is more when he has cattle of horses. If it be with kine, i.e., if it be with cows he enters to take lawful possession. It is a 'cumhal' that is mentioned, i.e., a 'cumhal' worth six cows is mentioned *as brought* to take possession of a land without chief or tribe alliance. Unless it be in a *lawful* possession, i.e., if he says it is his own land that he has taken possession of, it is in that case this is so. Without a chief, i.e., without a chief of the same tribe. Without a tribe, i.e., without agreement, i.e., of saints and just men. The cows which are brought are forfeited, i.e., the cows which are brought as unlawful means of taking possession are forfeited, together with the 'cumhal' aforesaid.[a]

That is, this is a 'cumhal' of *the value of* six cows, and this is equally *given as the fine* for taking possession of land which has[b] a chief and a tribe, or for taking possession of land which has not[c] a chief and a tribe; or, *according to others*, it is a 'cumhal' of the *value of* six cows for the taking possession of land which has not a chief and a tribe, and a 'cumhal' worth three cows for the other possession-taking.

If the nobles have entered[d] over a full fence, and it is a land which has not a chief and a tribe, it (*the fine*) is a 'cumhal,' and forfeiture of stock. If *they have entered* over a half fence, it (*the fine*) is three-quarters of a 'cumhal,' and three-fourths of the stock. If *they have entered on land* which has not any fence at all, it (*the fine*) is half a 'cumhal,' and half the stock. The stock only is to be equally divided as we have said, by the plebeians, and half a 'cumhal' *is the fine if it be* in 'Cain'-law. If it be land that has a chief and a tribe, it (*the penalty*) is forfeiture of the stock with a 'cumhal' *fine, if entrance be made* over a full fence, three-quarters *if* over a half fence, and one-half if there be no fence at all; and this is the same with respect to plebeians and nobles.[e]

If it be unknown to him *who entered* that it was not a land that had a chief, it is half fine *that is paid* by him, or, as in land that had a chief.

[a] Ir. *Before us.*

[b] Ir. *With.*

[c] Ir. *Without.*

[d] Ir. *For the nobles.*

[e] Ir. *For.*

OF TAKING LAWFUL POSSESSION.

Gne aile: Maḋ tir co cunn co coibne, dia mbed crai, is cumal; muna bed is leṫ cumal, ocus is coitceann indsin itir isel ocus uasal. Dia mbera air aín for airím teaċta do dainaib ocus eaċaib ocus buaib, is dilis uile có ro log cumaile dia mbed crai.

Muna bed, is leṫ cumal. Mad ba beirear ocus eich óga, ocus is luga nad loġ cumaile, is dilsi na hairme do trocaire, dia mbed crai; muna bed, is leṫ dilsi nairme ocus cumal a etrocaire, dia mbed crai. Muna bed crai, is leṫ cumal.

Tir cen cunn cen coibne, dia mbed crai, is cumal ocus dilsi nairme do uaislib, ocus leṫ cumal ocus leṫ dilsi nairme, muna bed crai. Maḋ do islib co croaib, is lan dilsi nairme. Muna bed crai, is leith dilsi nairme.

O'D 417. [Munup fo feilb techtaid.

.1. Munup a richt a ferainn fein teċtus i teċtuġa tire cen conn cin coiḃne, itir cain ocus urruḋus, .1. munup do saiġe selḃa aċt for eicín.

Tir cen conn cen coibne, dilsi ḃuair berur.

.1. Tir cen cunn comfialusa ris, .1. lesa, .1. fine, .1. cin coibnesta, aċt tetnuis ocus burba, .1. dilsi in buair beruir isin techtugad ninndliġṫech re taob na cumaile romuinn, ciḋ islip ciḋ uaislib, .1. is diles in buar uile, .1. in tan is tir cin cunn cin coibne, is dilsi nairme ocus na tri seoit a naithgin in féoir: no dono, is tri seoit nama in tan na telcṫer tri iar nderusc co naċ lais in tír, ocus is loġ ṫaiġe fo dera ainnsin: in tan imurro it dilsi nairme ocus na tri seoit, ime nindruic i soḋuin: mad leth ime imurro, is leṫ dilsi nairme i soḋuin.]

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[1] *If there be cattle.* Owing to the ambiguity of the term "crai," or "crui," it is very difficult to decide in some instances whether it should be rendered "cattle" or "a fence."

[2] *Are forfeited.* After "berur" in the MS. the words "inecur nechta" follow. They were not translated by Dr. O'Donovan, and their meaning is very obscure.

Another version—If it be a land that has[a] a chief and a tribe, *and* if there are cattle, it (*the fine*) is a 'cumhal;' if there be not *cattle*, it (*the fine*) is a half 'cumhal,' and this is common in this case both to plebeian and noble. Should he seize in one day upon a lawful number of people, and horses, and cows, they are all forfeit as far as the value of a 'cumhal' if there be cattle' *on the land*.

If there be not *cattle*, it (*the fine*) is half a 'cumhal.' If it be cows he brings, and he has horses, and it is less than the value of a 'cumhal,' the forfeiture of the stock is the leniency *of the case*, if there be cattle; if there be not, it (*the penalty*) is half forfeiture of the stock and a 'cumhal' in severity *of law*, if there be cattle. If there be not cattle, it (*the penalty*) is a half 'cumhal.'

In the case of land that has not[b] a chief and a tribe, if there be cattle, it (*the penalty*) is a 'cumhal'-fine and forfeiture of stock by nobles, and a half 'cumhal' and forfeiture of half the stock, if there be not cattle. If *the entry was made* by plebeians with stock, it (*the penalty*) is full forfeiture of the stock. If there be not cattle, it is forfeiture of one-half the stock.

Unless it be into lawful land.

That is, unless it be on the supposition of its being his own land he brings his requisites for taking possession of land that has not[b] a chief and a tribe, both in 'Cain'-law and in 'Urradhus'-law, i.e., unless he seizes land by force only.

In the case of land that has not a chief and a tribe, the kine which are brought *thither* are forfeited.[2]

That is, land which has not a head of a tribe, i.e., well wishes, i.e., of the tribe, i.e., without relatives, but fierce and lawless people, i.e., the forfeiture of the kine which are brought to take unlawful possession, together with the 'cumhal' aforesaid, whether they (*the people*) be plebeians or nobles, i.e., all the kine are forfeited, i.e., when it is a land without a chief without a tribe, it (*the penalty*) is forfeiture of stock and the three 'seds' as compensation for the grass; or, *according to others*, it is three 'seds' only when three days are not allowed after the proof being had that the land is not his (*the claimant's*), and the price of theft is the cause of this; but when it is forfeiture of cattle and the three 'seds,' *there was* a perfect fence then; if, however, *there was only* half fence, it (*the penalty*) is forfeiture of one-half of the stock then.

[a] Ir. *With.*

[b] Ir. *Without.*

OF TAKING LAWFUL POSSESSION.

Tuinide raitaig[1] a triun sealba co dil[2] no derosc. Teilgead ar treise, munab lais fobraid[3] co tein co naitreib, co fiaċa faiṫċe. Ite feich faithċe fir tellaig indligaig; clithear set, slaindte forgu na nuile; digu set somaíne, la cosnam con deithbire fir besa hai grian.

Tuinide raitaig .i. raitech ascnama methais .i. in tenduidi berus in ti dara teg in rot isin ferann co nice a trian, ocus trocaire do ronad ris im a lecud co trian in ferainn. Co dil .i. co dilud uad, .i. co dilod as. No derosc .i. co deirbcíndiud a airisme and. Teilgead ar treise .i. teilgitir he as ar treis manab leis bodein in deigferann sin, .i. iar mbreithemnaċt. Fobraid, .i. brug fuil fae.[4] Co tein .i. co teínid do denam ann ris in re sin. Co naitreib .i. co treabaib inait do tigib do dénaṁ ann ris in re sin. Co fiaċa faiṫċe, .i. cos na fiacaib bit aici for a faiṫċe uad, da ndernna indligeḋ teċtaigṫi. Ite feich faithċe .i. is iat so na feiċ uilet uad as a faiṫċi da ndernna inndligeḋ techtaiġṫi. Clithear set,[5] .i. cleithe ar set .i. loilgech. Forgu na nuile .i. in set is firtogaidi bis ac na huilib, in tsamaisc. Digu set somaíne .i. in set is ditogaidi somaine ann .i. dartaid da screpall. La cosnam co ndeithbire .i. don raitech .i. la deiṫbirus aici da cosnaṁ an ferainn don fir besa hai he .i. techtugad tire cen cunn cen coibni sin, ocus do ċuaid ní isiad na co nice trian in fearainn. Fir besa hai grian .i. don fir besa ai in grian do berar na feich so uile.

1. Ise aithne in raitaig; duine lais ro bai sechtar fine amuich costrasda, ocus ni fidir naċ raibi[6] ferann aige, ocus tic

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[1] '*Raitech*'-*person*. That is literally 'a roadman.'

[2] *On the point*. In C. 851, the gloss is "co dil .i. co. ruċtar breṫ immi, until judgment, i.e. until sentence is given respecting it."

[3] *Good land*. Over the 'd' of the word 'fobraid' is written the contraction for 'no' 'or,' and 'g' intimating that the last letter might be g.

[4] *Under him*. This gloss in the MS. seems rather to belong to the preceding clause. Dr. O'Donovan however placed it as here given.

[5] *The best sed*: 'cliṫar set' is explained in C. 852, ".i. laulgaċ, no daum timcella aratar, no buo inlaoge, a milch cow, a ploughing ox, or an incalf cow."

[6] *Had not land*. O'D., 418, adds here: "he is to give notice of ten days, and to go with all his property over *to the land* at the expiration of those ten days; and as

The possession of a 'raitech'-person[1] in the third of the land *holds* until judgment or decision *is had*. He is ejected after three days, unless he has good land with fire and habitation, with fines of a green. These are the fines of a green *to be paid* by the man who makes an unlawful entry: a 'sed' of the greatest value, styled the choicest of all 'seds'; the worst 'sed' for profits, with *the costs of* the necessary defence of the man whose property the ground is.

The possession of a 'raitech'-person, i.e. a 'raitech'-person suing lost property, i.e. the bold advance which a man whose house the road is, makes into the land until he reaches the third part of it, and it is mercy that has been extended to him in permitting him *to enter* as far as the third of the land. **Until judgment,** i.e. until judgment is given respecting him, i.e., until judgment is given on the point.[2] **Or decision,** i.e. a certain decision of his residence there. **Ejected after three days,** i.e. he is cast out after three days unless that good land belongs to himself, i.e. after judgment. **Good land,**[3] i.e. the land which is under him.[4] **With fire,** i.e. together with fire which has been made there during that time. **And habitation,** i.e. with habitations in place of houses which have been built there during that time. **With fines of a green,** i.e. with the fines which he has on his green to be paid by him, if he has made an illegal entry. **These are the fines of a green,** i.e. these are the fines which are *recovered* from him out of the green if he has made an illegal entry. **The best 'sed,'**[5] i.e. the best among 'seds,' i.e. a milch cow. **The choicest of all,** i.e. the 'séd' which is most to be chosen by all, *i.e.* the 'samhaisc'-heifer. **The worst 'sed' for profits,** i.e. the 'sed' which is least to be chosen for profits, i.e. the 'dartaid'-heifer worth[a] two screpalls. **With the necessary defence,** i.e. *to be paid* by the 'raitech'-person, i.e. *he*, the man whose property it is, is under the necessity of contesting the land against him (*the 'raitech'-person*), i.e. taking possession of land that had not[b] a chief that had not[b] a tribe, and he went farther than as far as the third part of the land. **The man whose property the ground is,** i.e. to the man whose property the ground is all these fines are given.

Thus may the 'raitech'-person be known; a man who was up to this (*the time of the action*) abroad, *living* apart from the tribe, and who does not know that he had not land,[6] and he comes with

mercy is shown unto him at his going over, so mercy is likewise shown unto him by giving him three days for departing, when *it is determined that* the land is not his property according to law, and whatever part of his duty he neglects, there is no fine for actual-possession upon him, except these 'seds,' namely, an incalf cow, a milch cow, and a 'dartaidh'-heifer * * *

When it is *cattle for* taking possession the 'raitech'-person brings, mercy is extended unto him in permitting him *to enter* as far as the third of the land the first day; and when it *the penalty*) is a 'cumhal' and forfeiture of stock from another for

[a] Ir. *Of.*

[b] Ir. *Without.*

OF TAKING LAWFUL POSSESSION. co na hindilib, ocus adberad na comaiċaig is lais ín tir, co nabair breithe a dul co trian ín ferainn. Bo ocus samisc ocus dartaig issed icaid a loġ a fogealta ín tire; ocus teilgaid ar treisi iar ngaid eir a cirt; ocus is tir co coibne do, ar is doig lais is lais; mad tir co coibne immurro, is dilsi nairme, amuil roraidsium.

Atait tri raitaig ann; raiteach ascnam a meathus, ocus raiteaċ deirge a meaṫas, ocus raiteċ riġ; ocus is aire a derar raiteċ res in rí, uair is leis a cuit friṫċe a roit, ocus ar a coittinde. In tan is athgabail as ail do gabail do na raiteaċaib, genmota ín rig, abaḋ naili ar ín raiteach graid flatha, ocus abad naen le ar ín raiteaċ graiḋ feine, ut supra diximus.

In tan is dilear an airim o caċ, is tri seoit o na raiteaċaib. A edtrocaire sin; a trocaire immurro, íní de as luga, dilsi na hairme no trí seoit, co rabead bes uaḋa. No, tri seoit o na raiteachaib, ocus dilsi an airme o caċ a teċtugad co triun sealba.

O'D. 419. [Slan don raitech cia teis co trian na sealba a tir co cond co coiḃne, cen co 'tucca araḋ, uair nach tá tír dia ḟulung fri re napuiḋ; tri seoit fair dia te ní is sía, no dia tairisi ṫall tar treisi iar nḋeitin dligiḋ dó. Ocus is tar ċro, ocus is leṫh muna beṫ crui.

Ma tír cen cond cen coiḃne, is dilsi nairṁe uaḋ amuil ċach: no dono, in greim gaḃuitt na tri seoit isin cumuil ise greim gaḃus a aíreṁsoṁ i náireṁ. No dono, in ḃail is dilis a aírem o ċach is tri seoit on raitech. A etrocaire, a trocaire immurro,

unlawful possession-taking it is three 'seds' that are paid by the 'raitech'-persons; or rather the proportion which the three 'seds' bears to the 'cumhal' is the same proportion which his stock bears to the stock of all others. Or, indeed, *according to others*, when it (*the penalty*) is forfeiture of stock from all others, it is three seds from the 'raitech'-persons; this is the severity of the case, but its clemency is

his cattle, and his neighbours say the land is his, and judges tell him to go as far as the third of the land. He shall pay a cow and a 'samhaise'-heifer and a 'dartaigh'-heifer as the price for grazing the land; and he shall be ejected after three days after failing to establish his claim; and it is a land to which he thinks he has a hereditary right,[1] for he thinks it is his; but if it be a land to which he has not a hereditary right it is forfeiture of stock[2], as we have said *before*.

There are three *sorts of* 'raitech'-persons; a 'raitech'-person who gets into failure, and a 'raitech'-person who deserts at failure, and the king 'raitech'; and the reason that the king is called 'raitech' is because he owns his share of waifs of his road, and *also* from his generosity. When it is distress it is thought fit to take from the 'raitech'-persons, except the king, a notice of two days *is served* on the 'raitech'-person of the chieftain grade, and a notice of one day on the 'raitech'-person of the Feini grade, ut supra diximus.

When the stock is forfeited by *all* others, it is three 'seds' *that are paid* by the 'raitech'-persons. This is the severty of the case; but the leniency of it *is*, the part of it which is less, the forfeiture of the stock, or three 'séds,' it is it he shall pay. Or, *according to others*, three 'seds' *are due* from the 'raitech'-persons, and forfeiture of the stock from *all* others for *having come* to take possession as far as the third of the land.

It is safe for the 'raitech'-person though he goes as far as the third of the land in a territory that has[a] a chief and a tribe, even though he may not have given notice, because the land is not supporting him during the period of the notice; there are three 'seds' *fine* upon him if he goes farther, or if he remains within beyond three days after attending to the requirements of law. And *this is when he goes* over a fence, and it (*the fine*) is one-half of *three 'seds'* if there be no fence.

If it be a land that has not a[b] chief and a tribe, it is forfeiture of stock *that is incurred* by him as by everyone else; or, *according to others*, the proportion which the three 'seds' bear to the 'cumhal' is the proportion which his stock bears to the stock *of all*. Or, *according to others*, where the stock is forfeited by everyone else it is three 'seds' *that are recovered* from the 'raitech'-person. This is the severity *of the case*, but its clemency is the

[a] Ir. *With.*

[b] Ir. *Without.*

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that part of it which is less, the forfeiture of stock, or three 'seds,' *is due* from the 'raitech'-person for coming as far as one-third of the land, and forfeiture of the stock[2] from all others."

[1] *Hereditary right.*—'Coibhne,' seems here to mean a right to the land by descent.

[2] *Stock.*—The stock necessary in making a legal entry.

OF TAKING LAWFUL POSSESSION.

in tí de is luġa .i. dilsi naírṁe; no, na tri seoit; no dono, it tri seoit o raiteċ i teċt co trian sealba, ocus dilsi nairṁe ó ċaċ.]

Atait teora aimsera insreagair éidechta la feine: athgabail éidechta; tellach indligtech, comrug gen curu bel, no gan eloḋ cu ndliged. Go tuaithe, go breitheamain nad beir fiacha cach ae.

Atait teora aimsera .i. am, re, ocus ḟir ruṫain; atait teora re ruṫaine i nindsaigenn neċ ni is indligṫeċ do denam do reir in feneachais. Athgabail .i. cuic seoit inde. Tellach indligtech .i. techtugad indligtech do bruth isin ferand .i. ba tar eis eoċu, ocus ro geba eoċu .i. cumal, no dilsi buair, no tri seoit ind. Comrug gen curu bel .i. comruc do cru do for nech cen trebuire co coir o belaib aici re aisec no re dlestin do in neiċ imarocair. No gan eloḋ .i. no can elod do lecod im a cáin dliged, .i. arard na troisci ce do dechaid fris. Go tuaithe .i. is go do tuaith .i. na mor tuaithe, ocus don breiṫemain na bera eiric im caċ nae im caċ nogae dib sin, cid be dib cus a roister.

tosach bescna so.

In ti do beir na techta seilb as e do ron co fiacaib taige. In ti creanas cen teol gen taigi, co nglaine cuibse, dileas dosuide o Dia ocus duíne; diam slan a cubus bid slan a anum.

Eimide dono dianad forgealltar, ara feirear coir

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[1] *The third of land.*—C. 852 reads, "i.e. the ninth, i.e. the third of the third of the tribe: he does not enter into the share of the chief or the church."

[2] *Forfeiture of stock.*—The 'airem' is the stock of cattle brought into land to legalize the possession.

[3] *The beginning of 'Bescna' here.*—In the MS. there seems to be no break between this passage and that immediately preceding, but on the margin the Irish for this heading is given. In other places in the same MS. similar marginal notes are found, where the original seems to be a continuous subject.

[4] *Right of covenants.*—In C. 853, there is a gloss on this text, and it is

smaller of these, i.e. forfeiture of stock, or the three 'seds'; or, *according to others*, it is three 'seds' from a 'raitech'-person, for *illegally* coming as far as the third of the land,[1] and forfeiture of stock [2] from all others.

OF TAKING LAWFUL POSSESSION.

There are three occasions on which illegalities are prosecuted by the Feini: unlawful distress; illegal entry; combat without verbal engagements, or not departing according to law. It is falsehood for the laity, it is falsehood for the judge who does not award fines for each.

There are three occasions, i.e. 'am', time, and 'sir' fixed; there are three fixed periods at which one sues the thing which is unlawful to do according to the Feinechus. **Distress**, i.e. five 'seds' *are the fine* for it. **Illegal entry**, i.e. to bring illegal means of taking possession into the land, i.e. cows after horses, when he could find horses, .i.e. *the fine* for it is a 'cumhal,' or forfeiture of stock, or three 'seds.' **Combat without verbal engagements**, i.e. to proclaim a battle against[a] one without proper security by word of mouth for restoring or righting the thing about which he gives the challenge. **Or not departing**, i.e. or without departure from the rule of law, i.e. warning or fasting though he was fairly met[b] *by an offer of arbitration*. **Falsehood for the laity**, i.e. it is a lie for the country, i.e. the great territory, and for the judge who does not award 'eric'-fine for each and every one of these *cases*, whichever of them they come to decide upon.

[a] Ir. *Upon.*

[b] Ir. *Though he was come against.*

THE BEGINNING OF 'BESCNA' HERE.[3]

He who gives property which is not lawfully his own shall pay the fines for stealing. *As to* the person who buys without stealing or concealment, with purity of conscience, it (*what he buys*) is his lawful property according to God and man; if his conscience be free, his soul is free.

Thou deservest whatever is adjudged; that thou mayest know the right of covenants;[4] that thou

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said that "aꞃu ꝼeꞅeꞃ coiꞃ comnaꝺmann" was spoken by Fergus, the poet, as equally applicable for every Brehon.

OF TAKING LAWFUL POSSESSION.

comnadma, ara ruice fir fíream saigte saer, saigaid in mesram cor comadais cach anaicaidtear ara taebtanais; ar ni seadar nad airligtear la feine do gres, daig fíne ocus firgiallna na maithri oiltrear; ar ate a tri ro suigid do imfothaig cor.

In ti do beir na techta seilb, .i. in ti do beir ní do neoch, ocus noco na seilb bodéin techtus, aċt o seilb gaiti in gataide. As e do ron co fiacaib, .i. ise icus he co fiaċaib gaiti. In ti crenas, .i. in ti cennaiges. Cen teol, .i. cen gait .i. cen teol, toiblenann a gait bunaid fo cetoir. Gen taigi, .i. cen diceilt, .i. dicelt a gaiti iardain. Co nglaine cuibse, .i. tri slan, gaibter sunn aici in set, no dia mbe trebuire, .i. cen eneclainn, cen smaċt cen aithgin mani tairisiter. O dia, .i. na heclaisi. Ocus duine, .i. na tuaiṫi. Diam slan a cubus, .i. can fis cubus braith aici.

Eimide dono, .i. foimdenaig, no urfoichli ma dia tistar a fuigell do breithemnais. Ara feisear, .i. co feisersiu, no co roib a fis acut ordugad na cuma nascaireċta do reir ċoir. Arruice fir, .i. corab e ni bera do neoch dul a nascaireċt is dir do dul re log enech. Fíream saigte saer, .i. is fir lim saigid a hindsaigṫi sin for na soferaib; no isseḋ isaer duit dul fri loġ ṫenech. In mesram, .i. ise ní ro meisemnaiged a hinde doib dul sis in ni ro cotaímsiged do réir ċoir, dul re log an enech. Anaicaidtear, .i. is e ní forairsear in caċ sin ar in taeb ro huceisced do dul, tar cenn a comgraid. Ar ni seadar, .i. uair no con indsaigṫi do neoch dogres do reir in fenechais in ní nar eraluaiged do dul, re ní is mo na re log enech. Daig fine, .i. ticfaid in fine fo coraib, uair is michor do dul re ní is mo na re log a enech, .i. ma mo na log a eneċ, taitmiġ fine ocus maithre ocus flaṫa. Ocus firgiallna, .i. na fir danada in giallad no in ceillsine .i. na flatha ticfait fo coraib. Na maithri, .i. is uillidi in tres and fine mathar, ac taideċt fo coraib. Ar ate a tri, .i. ar is iad so in treidi ro samaiged no ro hordaiged demfuaitred na cor nindligṫeċ do dena nech. Mara indeiṫbir ro nuc uad, no ní fuigbed cia ro gell, ní gabar log uad ind itir. In tan naisctear in fiaċ, ocus is doig lais fogebad, no ro nuc deiṫbir uad, a log do íc ind.

[1] *Firgiallna.*—In C. 854, this term is glossed "ced-giallnai."

[2] *The third.*—In C. 854, "oltres" is explained "a maiṫre quod tertium est." The translation here given of the term is only conjectural; the text appears defective, and the gloss seems to be a mere etymological analysis of the word 'oiltrear.'

mayest reach the truth, thou shalt sue the nobles, thou shalt sue for what is estimated in a meet covenant from all who are bound as sureties for their neighbours; for no one ever sues for more than is allowed him *as honor price* by the Feini, for the tribe and the 'Fir-giallna,'[1] *and* the mother's *tribe* shall interfere; for these are the three parties who are appointed to dissolve covenants.

He who gives property which is not lawfully his own, i.e. the person who gives a thing to any one which was not lawfully in his own possession, but in the possession of the thief by theft. Shall pay the fines, i.e. it is he shall pay for it with fines for stealing *besides*. Who buys, i.e. he who purchases. Without stealing, i.e. without thievery, i.e. without secrecy, *i.e.* who produces, (*i.e. discloses*) the original theft at once. Without concealment, i.e. without secrecy, i.e. concealing the theft afterwards. With purity of conscience, i.e. three sureties, *i.e.* he takes here the 'sed,' or if there be security, i.e. without honor-price, without 'smacht'-fine, without compensation, unless he has taken it. God, i.e. of the church. And man, i.e. the laity. If his conscience be free, i.e. having no knowledge of a betraying conscience.

Thou deservest, i.e. thou meritest or thou earnest if they have come to the decision of the judgment. That thou mayest know, i.e. that thou mayest know, or have a knowledge of the order or form of covenants according to justice. That thou mayest reach the truth, i.e. that it is the thing which gives one *the right* to enter into covenant that should go as his honor-price. Thou shalt sue, i.e. I deem it true that thou followest up thy suit upon the goodly men; or what is free to thee is to go *security* as far as the honor-price. What is estimated, i.e. the thing that was estimated originally for them is to go security for[a] the thing which was fixed according to right, *i.e.* to go *surety* as far as his honor-price. Are bound, i.e. that is what all bind on the person who was permitted to go *surety* for his equal grade. For no one ever sues, i.e. for no one is to sue at any time according to the Feinechus for a thing which is not permitted him to go *security for*, *i.e.* for anything which is greater than his honor-price. For the tribe, i.e. the tribe shall impugn[b] the compacts, for it is a false covenant for him to go *security* for anything which is greater than his honor-price, i.e. if it be greater than his honor-price, the tribe and mothers and chiefs dissolve it (*the contract*). And 'Firgiallna', i.e. the men to whom is due the service or the vassalage, i.e. the chiefs shall oppose the compacts. The mother's, i.e. the third[a] party are more numerous, i.e. the mother's tribe impugning[a] the compacts. For these are the three, i.e. for these are the three who were appointed or ordained to disturb the unlawful contracts which one shall make. If it was without necessity he gave a thing away, or he does not procure *a thing* though he promised, no price is got from him for it at all. When the debt is fastened, and he thinks he will get it, or he gave it away of necessity, its price is paid then.

[a] Ir. *To go with.*

[b] Ir. *Come against.*

[a] Ir. *Coming against.*

OF TAKING LAWFUL POSSESSION.

Ni nais uma na hairgead na hor, aċt for mal; ní nais buar ba chindia for neach lais na biad ba; ní nais tir for imrumach, munas fotha sealb; ní nais edach for nach nocht, muna torma tlaċt; ise grethe cen torad do gni ro coll brech. Ite mearra ad gella a cumung do caċ.

Ni nais, .i. ní ro fonaiscsiu in airged no in or no in uma aċt for in nuasal, uair is aice bo doiġ a mbith, no ise bo doich da fagbail. Ní nais buar, .i. ní ro fonaiscsiu buar aṁuil in mbuar do berad ba chindia cennaiḋe lais tairis ar in ti ac na biat ba, no na bad cuimgeċ a fagbail co hurusa. Ni nais tir, .i. ni ro fonaiscisiu ferann for in ti bis for imrama a inad dinad, mana fothaigter ferann aici, no mana roib fearann aici da fothugad. For imrumach, .i. for foendlegach. Ní nais edach .i. ní ro fonaiscsiu etach for in duine bis lomnaċt, mana roib etach aice da toirithin. Muna torma tlaċt, .i. maní toir etach co heim. Ise grethe cen torad, .i. ise ní ata do reir ro ciallaide na mbreth; amuil is etarbach grech na cno fairi cen torad aici, is amlaiḋ is etarbach na neiche sin do denam. Ite mearra ad gella, .i. ise ní ro meisemnaiged do gellad do caċ in ní ima cumtar he inigill, in ní biar aice .i. isseḋ messaigus breiṫem a cumaċ do gill do caċ.

.i. mas da fis no da anfis .i. fis ac feicheamain toicheda, ocus fis ac trebaire, no anfis ac feithemain toiċeada na rabadar na seilb na seoit rotíngellta ann, is for raiṫ arra anarra. Massa anfisac feichem toicheda ocus fisac trebaire, ascrenar odur airlicter.

O'D. 420. [.i. caċ fiaċ inġellus duine ocus biḋ ina ḟaiḋbre, no is doiġ lais a fagail o neoch eile, ocus dia ti deṫbir, no do mbeir uaḋ iar sin, is ann is foreiṫ arra anarra, aċt imto caċ ad innliṁe.

Caċ fiach ingellus na biḋ ina saiḋbre, no naċ doiġ lais a fagail, isi éiric amuil ro ġell .i. in tan na bí i seilḃ in ḟeicheman

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[1] *Cinnia, the merchant.* In C. 854, the reading is buar baċ Cinnia, and the gloss adds "Cinnia, for he was the first who brought cows into Erinn."

[2] *Blind nut.* "enġriġe" is the reading in C. 854, and it is glossed "cnu caeċ,

OF TAKING LAWFUL POSSESSION.

Thou shalt not bind anyone to *pay in* copper, or silver, or gold, but a chief; thou shalt not bind anyone to *pay in* kine like those of Cinnia, who has not kine; thou shalt not bind anyone to *pay in* land, who is wandering, unless he possesses land; thou shalt not bind a naked person to *pay in* clothes, unless he has got raiment; it is as a nut without fruit to adjudicate in this manner. The promises of all should be adjusted to their ability.

Thou shalt not bind, i.e. thou shalt not impose *the payment of* silver, or gold, or copper, except upon the noble, for it is with him they are likely to be, or it is he that is likely to get them. Thou shalt not bind, &c., kine, i.e. thou shalt not impose *the payment of* kine like the kine which Cinnia the merchant[1] used to bring across with him, upon the person who has not got kine, or who cannot easily procure them. Thou shalt not bind land, i.e. thou shalt not fasten *payment in* land upon the person who is moving from place to place, unless it is found that he has land, or unless he has land to support him. Who is wandering, i.e. upon a wanderer. Thou shalt not bind clothes, i.e. thou shalt not bind *payment in* raiment upon the man who is bare naked, unless he has clothes to relieve him. Unless he has got raiment, i.e. unless he finds clothes quickly. It is as a nut without fruit, i.e. it is a thing which is according to the wisdom of judgments; as the shell of the blind nut[2] without fruit is profitless, it is likewise profitless to do these things. The promises should be adjusted, i.e. the thing by which the promises of all are to be estimated is the thing by which he is kept to his promise, *i.e.* the thing which he has, i.e. the Brehon estimates every one's promise by his power *to fulfil it.*

If by his knowledge, or by his ignorance, i.e. *if* the plaintiff have knowledge, and the surety have knowledge, or the plaintiff have not knowledge that the 'seds' which he promised on the occasion were not in his possession, it is upon the security of "'arra'-goods for 'anarra'-goods."[3] If the plaintiff be ignorant, and the surety has knowledge *of the fact*, the thing which is pledged is paid.

That is, every debt which a man promises when he is in his rich condition, or he thinks he will get it from another, and if necessity should arise, or if it should be afterwards taken from him, it is then it falls under "'arra'-goods for 'anarra'-goods."

In every *case of* debt which one promises who is not in a rich condition, or which he does not expect to get, the 'eric'-fine is as he

a blind nut; for it is of no profit to him who breaks it. It is so with a person who binds upon one a thing which he has not. For no one should promise a thing which he has not."

[3] '*Anarra*'-*goods*. Vid. vol. 3, p. 150, *n*. 'Arra' means the thing promised or a similar one, 'Anarra,' a different thing, as e.g. a 'cup' instead of a 'cow.'

OF TAKING LAWFUL POSSESSION.

ocus nocha doiġ a ḟagail do, ocus ro ḟitir in raiṫ, a ícc amuil ro nascar fair co los ocus as.

Maḋ ro ḃui aige in tan do rinne in cunnraḋ, ocus do ċuaiḋ fri deċbirius, is foreiṫ arru anarru, .i. in tan naiscter in fiaċ, ocus is doiġ lais foġebiḋ, no ro nuc deċbirius uaḋ, a loġ dia chind.

Mas indeċbirius ruc uaḋ, no ni fuiġḃeḋ cia ro gell, ni gabur loġ uaḋ inn itir].

In longad bandtaig bancora a coibne coir comarda, ara nairc finnsruth findtiġa [manip se sei mbera.] Do bert bri ar bancora. Orba máine mes coirce o ta cach cind comḟocais; fo lin maine miḋidear o ta hindua co hiarmua, inge cumal senorba; fo miad grian genither. Finntiu for cul cumċither; trenib fine foglaisġtear; gabul asta echtranda; mad di cuicṫe tormola. Imta fri cín comfocais, mad don tellach derechtach; acht ceathruime do findfine. O secht dec deilithear co nach duthaiġ do fíne. Fuider ní beir cin comfocais, muna cuic treaba toirbeanadar. Ma cuic trebaib comslanaib conrandat a finnteada.

In longad bandtaig .i. eillgit a mic ocus a níngena in ní for ar alsat curu a maithre, .i. ineillgiter na mna techtugad do breith is

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[1] '*Coibne*'-*property*, vid. p. 31. *Supra*, n. 1.

[2] *Unless he be the sixth.* This clause in the Irish is supplied from the lower margin of the first column, in E. 3, 5, p. 9.

[3] *Bind.* In the MS. the letters a and l of 'alsat' are marked in a way which seems to denote that they should be transposed.

promised, that is, when it is not in the possession of the debtor, and it is not likely to be got by him, and the security knew it, it is to be paid as it was bound upon him, with addition and increase.

Of taking lawful Possession.

If he had it (*the property*) when he made the contract, and it passed away *from him* by necessity, it (*the case*), is according to "'arra'-goods for 'anarra'-goods;" i.e., when the debt is fastened, and he thinks that he will procure it (*the thing promised*), or necessity has carried it from him, he is forgiven the value.

If it be not necessity that carried it away from him, or he cannot procure it though he promised, no value is taken from him for it at all.

Heirs of females claim on rightful covenants of equal value made with a female *ancestor*, relative to 'coibne'-property[1] for the fair-chief of the tribe confirms the subject matter, unless he be the sixth.[2] Brigh pronounced judgment on female covenants. Lands are estimated by their stock from every related head; they are estimated according to the amount of their property from the great-grandson to the great great-grandson, except in regard to the 'cumhal senorba'; according to the size of the land it (*the 'cumhal-senorba'*) is produced. The tribe property is claimed backwards; it is divided between three tribes; an extern branch stops it, if the five persons *of the 'Geilfine'-division* perish. Except as regards the liability of relationship, if the family become extinct; except a fourth part to the 'Findfine.' From seventeen men out it is decided that they are not a tribe-community. The 'fuidhir'-tenant does not bear the liability of relationship, unless there be five houses to relieve each other. If there be five houses with complete stock, they share the property of the tribe.

Heirs of females claim, i.e. their sons and their daughters claim the thing which the contracts of their mothers bind,[3] i.e. the women claim to bring means

OF TAKING LAWFUL POSSESSION.

in ferann ar an laeret na mna aili a fir ċuru. A coibne coir comarda .i. amlaiḋ ro coibindtiged a comardugad for coraib do reir ċoir. Ara nairc finnsruth .i. is e in sruiṫ taitnemach bis, .i. flaṫai geilfini ise fonaiscer in trian masa orba cruib no sliasta he, no ise fonaiscer in ferand uile masa ferand tucad. Manip se sei mbera. i. manap e in séised fer is e berus in dibad .i. manab e in séised fer deċ a geilfine, in deirbfine fonaiscer coimgi an geilfine, aċt neċ do cuicfer na geilfine. Do bert Bri ar bancora .i. tellach ind .i. do brethemnaiged do Brig in ferann ar an laeret na mna aile a fir ċura. Orba maine mes coirce .i. in ferann ar an meisem corach a moin a mathar, no mair a mathar, .i. Maer ingen Cobṫaig Cailbreg .i. rig erend.

.i. Orba cruid ocus tsliasta na mathar sunn, ocus dibugad ro dibaiġi in maithir, ocus ní fuilit mic aċt ingeana nama. Ocus beraiḋ in ingean in fearann uili co fuba ocus co ruba, no a leṫ gan fuba gan ruba; ocus coimde fuirre re aiseac uaiṫe iars na re.

O ta cach cind comḟocais .i. o ṫa aisneis dam do dibaḋ cach cind dar comfoicsied in ferann; in geilfine uili ro dibda and, acus in ferann uile do breith don ingin a dualgus bancomarbais; no o ta aisneis dam do dibad in cind dar comfoicsied in ferand, in ingin, is ann comroindtir in ferand fo na teora finib. Fo lin maine .i. meisemnaigter maine in ferainn fo imat na fine iar ndibud na hingine. O ta hindua .i. na geilfine .i. is iat ro dibda and, no is iat comroindfes in ferann. Co hiarmua, .i. na deirbfine. Inge cumal senorba .i. ingi ar aċt, ata aċt lim and, aċt in cumal senaigter don orba sain, seċtmad tire dibaid, ocus a bith seic a laim flaṫa geilfine ac urrnaidi

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[1] *Of equal value.*—In C. 854—the following explanation is given: "Comarda, .i. dicunt alii 'comorbe,' i.e. the thing which was in the possession of the mother is what the daughter claims, or the thing which the mother gives and bequeaths to her."

[2] *The fair chief of the tribe confirms.*—In C. 855—the following reading of this gloss is given. "Ailiter ar i nairc, finnsruth, i.e. the 'Finnsruth Feinechuis,' of the 'Geilfine'-division, are as the five brothers, like as the five fingers of the hand, each of them obtains the 'dibadh'-land of the other.

For it binds, i.e. no one shall take unto himself *to make up* the 'Geilfine'-division any one of his tribe in general, although there should be but one man of the five brothers alive except himself, i.e. the son of the man who has the 'dibadh'-land shall not obtain it, i.e. he is the sixth in relation to the five; he shall not alone obtain the 'dibadh'-land which his father holds, but the sons of his brothers *shall share it with him*, but it shall be divided among all after the death of the man who obtains the lands of his extinct brother. The 'dibadh'-land of the deceased shall be shared by the sons of his other brothers, for the right to it

OF TAKING LAWFUL POSSESSION.

of taking possession into the land about which the other women made true contracts. Rightful *covenants* of equal value[1] relative to 'coibne'-property, &c., i.e. according as it was stipulated that it shall be adjusted by compacts according to justice. The fair chief of the tribe confirms,[2] i.e. it is the pleasant senior, i.e. the chief of the 'geilfine'-division is he that confirms the one-third, if it be 'cruibh'-land or 'sliasta'-land, or it is he that confirms all the land, if it be land that was given. Unless he be the sixth, i.e. unless he be the sixth man, it is he that will obtain the 'dibadh'-land, i.e. unless he be the sixteenth (*sic*) man removed from the 'geilfine'-division, it is not the 'deirbhfine'-division shall confirm the power of the 'geilfine'-division, but one of the five men of the 'geilfine'-division. Brigh pronounced on female covenants, i.e. there was an entry in the case, i.e. judgment was passed by Brigh touching the land about which the other women made their true contracts. Lands are estimated, i.e the land about which contract was made by her mother Main, or her mother was Maer, i.e. Maer, the daughter of Cobhthach Caelbregh, i.e. King of Erin.

The 'cruidh' and 'sliasta'-land of the mother is here *referred to*, and the mother had died and left no sons, and there are no sons, but daughters only. And the daughters shall obtain all the land with *obligation to perform* service of attack and defence, or the half of it without *obligation to perform* service of attack and defence; and there is power over them to *compel them to* restore the land after their time.[3]

From every related head, i.e. as I am about to tell concerning the 'dibadh'-land of each chief to whom the land belonged; all the 'geilfine'-division here became extinct, and all the land is obtained by the daughter in right of her female 'coarb'-ship; or as I have to tell concerning the 'dibadh'-land of the head (*chief*) to whom the land belonged, i.e. the daughter, it is then the land is divided among the three tribes. To the amount of their property, i.e. the property on the land is estimated according to the number of the tribe after the extinction of the daughter. From the great grandson, i.e. of the 'geilfine'-division, i.e. it is they who have become extinct, or it is they shall divide the land. To the great great-grandson, i.e. of the 'deirbh-fine'-division. Except the 'cumhal senorba'[4], i.e. 'inge' for 'except,' I make an exception here, but the 'cumhal' which is reserved of that land, the seventh of a 'dibadh'-land, and this is in the possession of a 'geilfine'-chief

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is not more inherent in his son than in all, as is set forth in the 'Corus Fine'-law.

[3] *After their time.*—O'D. 421, adds here, "ocuꞅ ıꞅ é ꝼlaıṫ ꞡeılꝼeıne naıꝺmeꞅ e; and it is the chief of the 'geilfine'-division, who binds it" (*obliges the daughter to give back the lands*).

[4] *The cumhal senorba.*—In C. 856, the following note is added, which is not found in any other of the copies:

Except a 'cumhal tsenorba,' i.e. a chief head of a family who sustains the companies attending the king and the bishop and who is substantial to bear liabilities. When the 'deirbhfine' obtains the 'dibadh'-land of the 'geilfine,' all their number present give the worth of a 'cumhal' of land to this man, and to every other head of a family whatever, one after another, who is not near enough to be one of the tribe. The reason that it is given to this man is because he is bound to pay for the liabilities of the family. See also C. 2183.

OF TAKING LAWFUL POSSESSION.

fuidri ocus gormic. Ocus is e cuit in aċt and, uair noco bia comroind uirrisde, no noco bia itir hi no cor dibda in fine uile; ocus is as sin gabar cona beit in cumal tsenorba no cor dibda in fine uile.

"Moirseisiur nosbeir co mbuaiḋ,
"Cumal tsenorba ní suaill;
"Mic na tri cetmuinntir caom,
"Is mic aḋaltraiġe imaraon;
"Fuidir ocus gormac glan,
"Ocus daor fuiḋir, in seċtmaḋ.

Fo miad grian genither .i. ada geinitseic fo uaisletaid in ferainn fo meit no fo laiget. Finntiu for cul .i. cuingiter duthcus na geilfine for culu do cum ndeirbfine a cuit de in tan comroindtir he fo na teora finib. Trenib fine .i. fodeiligtir in dibad itir na teora fine .i. deirbfine ocus iarfine ocus indfine. Gabul asta echtrand a .i. is gabul is echtraind custrasta do geilfine in gabal da nastaiter in ferand .i. in deirbfine. Mad di cuicṫe .i. is ann so mad iar nec cuicfir na geilfine, is ann comroindtir in ferand fo na teora finib, ocus ni fuil bancomarba ann. Imta fri cín comfocais .i. is amlaid sin atait re hic cinad a comfocais, uair amuil comroindit in dibad is amlaiḋ icfait in cinaid. Mad don tellach .i. mad iar nderach tellaig na geilfine as a firt, .i. as a ferann, is ann comroindter he .i. in ferann fo na teora finib. Acht ceathruime do findfine .i. nocon fuil ní dindfine aċt ceathramad do dibad geilfine, .i. in seised rand dec. O secht dec .i. o ṫa na secht firu dec anunn, is an deiligter iat, conaċ duthaig fine iat o ṫa sin amach aċt duthaig ndaine. Fuider ní beir cin comfocais .i. gabla ⁊rl, .i. in fodaer, in daer aicinta, noco beirenn cinaid a comfocais. Muna cuic treaba toirbeanadar .i. mana rabat cuic treaba aici da toiriċín, .i. in cuic raith cedach, ocus manab ac oen flaith beit. Ma cuic trebaib comslanaib, .i. ma comlanaigter cuic trebta caċa dair dib in cuic raiṫ cetach; dia mbe cuic fer dib ocus cet dindilliḃ o cach fir, beirid caċ dibad ocus cinaid araili, amuil cach nurraid, o bias in cuic raith cetach acu ocus o bus ac oen flaith beit; ocus cethramṫu cinaid urraid

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[1] '*Gormacs.*'—That is, sons who support their fathers in old age, or sons of a sister.

[2] *Seventh.* The Irish of this passage is found in the left margin of p. 9, col. 1, of the MS. E. 3, 5.

[3] *Three tribes.*—C. 856—adds; "the three we mention here, i.e. the chief, the church, and the tribe."

[4] *Except a fourth.*—In C. 857—where there is a running commentary on this text, the following note is added here:—

"Except the fourth of the 'innfine'-division, i.e. after the extinction of the 'geilfine'-division, so that their abode is desert, then the 'deirbhfine'-division obtains all their 'dibadh'-land; but the 'innfine'-division gets a fourth part from

when petitioning 'fuidher'-tenants and 'gormacs.'[1] And the force of 'except' here is, because there is no division of this *cumhal*, or it shall not exist at all until all the tribe shall have become extinct; and from this is derived *the saying* that there shall be no 'cumal senorba' until all the tribe is extinct.

Seven persons obtain, with triumph,
The 'cumhal senorba,' not scanty;
The sons of the three first wives fair,
And the sons of the 'adaltrach'-woman likewise;
A 'fuidhir'-tenant and a fine 'gormac,'
And a 'daer-fuidhir'-tenant the seventh.[2]

According to the size of the land, i.e. this is produced according to the nobleness of the land as to greatness or smallness. The tribe-property *is claimed* backwards, i.e. thehereditary right of the 'geilfine'-division backwards to the 'deirbhfine'-division who have their share of it when it is divided among the three tribes.[3] The three tribes, i.e. the 'dibadh'-land is divided between the three 'fine'-divisions, i.e. the 'deirbhfine'-division, and the 'iarfine'-division, and the 'innfine'-division. An extern branch stops it, i.e. the branch by which the land is detained is a branch that is hitherto extern to the 'geilfine'-division, i.e. the 'deirbhfine'-division. If the five, &c., i.e. in this case, if after the death of the five persons which are the 'geilfine'-division, the land is divided among the three 'fine'-divisions, and *in this case* there is no female heir. Except as regards the liability of relationship, i.e. it is thus they are as regards the paying for the crimes of their relatives, for as they share the 'dibadh'-land so they shall pay for their crimes. If the family, i.e. after the removal of the family of the 'geilfine'-division out of their land, i.e. out of their territory, it is then it, i.e. the land is divided among the three 'fine'-divisions. Except a fourth[4] part to the 'find-fine'-division, i.e. there is nothing for the 'innfine'-division except the fourth of the 'dibadh' land of the 'geilfine'-division, i.e. the sixteenth part. From seventeen,[5] i.e. from the seventeen men out, it is then they are distinguished, so that they are not a tribe community from that out, but a community of people. The 'fuidher'-tenant does not bear the liability of relationship, i.e. the 'fuidher gabhla'-tenant, &c., i.e. the 'fo-daer'-person, i.e. the natural bondman does not bear the crimes of his relatives. Unless there be five houses to relieve, i.e. unless he has five houses to relieve him, i.e. the five who have stock *consisting* of a hundred *head of cattle*, and unless they belong to one chief. If there be five houses with complete stock, i.e. if the five houses, the five who have stock *consisting* of a hundred *head of cattle*, of each 'daer'-man of them be complete; if there be five men of them each man having a hundred of cattle, every one of them obtains *his share of* the 'dibadh' land and *pays for* the crimes of the others, like every free native, *i.e.* when they have the five stocks of a hundred *head of cattle* and are under one chief; and they shall pay the one-fourth of the crime of the free native, and the fourth part of the 'dire'-fine of the native free-

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them of everything which is divided, both lands and 'seds.' In like manner are their crimes paid for.

[5] *From seventeen.*—From this out they do not obtain any share; for the 'geilfine'-division extends to five, the 'deirbhfine'-division to twelve, the 'innfine'-division to seventeen men.

icus, ocus cethramṫu dire dula urraid do ina duil. Conrandat a finnteada .i. is taitnemach urrandus caċ dib duthaig fine a ceile.

Ni mac bradas finntiga fine fri fod frithmeasa, munab neasa fir coibneas mathair athair in orba.

Horba mathar muncoirche a mic o flaithaib a ardthimna. Do aisic a leath imurro do cum fine fir grian; a leath anaill a fir brethaib sil a feola fodlaigtear. Fine o cirt cobrainne. Nis tic do cert comfocais acht cert orba mboaireċ da secht cumal; comarda orba biatach mboaireach; orba for set nimfaebair; as da ranar leith dire.

Ni mac bradas finntiga .i. noco ne ín mac foxlas dutċus fine a mathar uile, ní is mo na secṫmad tire dibaḋ.

Mad orba cruib no sliasta, no dilsigṫi dathair dia íngin ar duthracṫ, is diles o fine do macaib deoraiḋ ocus murcairṫi, cein beiti oc fognam de, co a ndibad no a ndeirge o fine. Mad mac imurro berus cetmuinntir do urraḋ, is dilus da trian na norba sa do, uair berait mic na nurrad cinaid; mad mac imurro adaltraigi, is leṫ na norba so do.

Fri fod frithmeasa, .i. o fir meisemnaigter fine maiṫri beṫ a faitċius sis.

.i. bancomarba fil sund ocus ferann athar ocus senathar aice re re, ocus gemaḋ ail di a tabairt dia macaib ní tibrea.

Munab neasa fir coibneas, .i. maníp nesa a ċoibnes in ferainn da mathair inna dathair, manib orba cruib ocus sliasta don mathir he; uair massed, beraid in mac rann de fo aicned cetmuinntire urnadma no adaltraige.

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[1] *The true judgments.* In C. 859—the following note is added here:—

"A female heir is here referred to, and her tribe are not bound to restore to her. It is after her death it is divided between sons and brothers, for if the tribe were

OF TAKING LAWFUL POSSESSION.

man's beast shall be paid to *each of* them for his beast. They share the tribe property, i.e. it is delightfully each of them shall share the tribe property of each other.

It is not a son that obtains the property of a tribe in ground to be valued, unless the title to the land be nearer to his mother than to his father.

As to a mother's land her sons shall divide it from the days of her public testament. But the half of it reverts to the tribe of the original owner of the land; the other half according to the true judgments,[1] the seed of her flesh divide. The tribe *divide their portion* by just partition. There comes not by right of relationship but the right land of a 'bo-aire'-chief *to the extent* of twice seven 'cumhals;' similar are the 'biatach'-lands of the 'bo-aire'-chief: *as to* land given up for a road and respecting which there are obligations, it is to be restored; half 'dire'-fine is paid out of it.

It is not a son that obtains, i.e. it is not the son who takes the patrimony of the whole tribe of the mother, *he takes* no more than a seventh of 'dibadh'-land.

If it be 'cruib' or 'sliasta'-land, or land appropriated by the father for his daughter out of affection, it is forfeited by the tribe to the sons of *the husbands, being* exiles and foreigners, while they are doing good with it; they also have what the tribe leave vacant or desert. If it be a son that a first wife bears to a native freeman, the two-thirds of these lands are forfeit, because the sons of native freemen bear (*pay for*) liabilities; but if he be the son of an 'adaltrach'-woman, half these lands *are due* to him.

In ground to be valued, i.e. when it is truly estimated that the tribe of the mother are cognizant of it.

A female heir is here *referred to* who has had the father's and the grandfather's land for a time, and though she should desire to give it to her sons she shall not give it.

Unless the title to the land be nearer, &c., i.e. unless the claim to the land be nearer to the mother than to the father, unless it be 'crudh' and 'sliasta'-land of the mother; for, if it be *such*, the son shall take a share of it according to the nature of *his mother's contract, i.e. whether she be* a first wife of contract or an 'adaltrach'-woman.

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bound to restore the land from her, no portion of it would be given to the sons afterwards."

OF TAKING LAWFUL POSSESSION.

Horba mathar muncoirche, .i. in ferann ar ar meisem corach a main a mathair, is maín do neach fris cuirethar cor. A mic o flaithaib a ardthimna .i. bud le a macaib si a cuit de on lo do rigne a timna co hard, .i. is la a macu o laiṫaib a bais .i. orba cruib ocus sliasta rannthair isunn amuil rannthair cinaid romaind, .i. bancomarba dono anisiu, ocus ni dlig [a fine tairic ndi], mad neasa in findtiu do mathair in mic ar bancomarbus ina dia athir, is and inarbenadsaide a fine o a cirt comrainde, ar isseḋ a certsom a findtid do breith ar fine. Do aisic a leath, .i. aisictir a leṫ imurro in fir grian dia fine. Ocus is e cuit in imurro ann, uair ferann na fine seo, ocus orba cruib ocus sliasta romaind, .i. is e cuit in imurro, noco naiscenn ní dferann a athar ro bi ina laim, ocus aisci a ferann dilus fen. A leath anaill, .i. a leṫ aili do reir na firbreṫa no na firbretheman. Sil a feola fodlaigtear .i. fodeiligter eiseic do sil a feola, da ċlaind. Mac adaltraigi urnadma ocus fine sin, ocus a roind ar do eturru. Fine o cirt cobrainne, .i. in fine ṫic dia cumaroind do reir cirt, ocus isi sin a coibraind o fine tir da seċt cumal do ingín in boairech is ferr. Nis tic do cert comfocais, i. ní tic do comoicsigud de do reir ċirt. Acht cert orba mboaireċ .i. aċt mad ferann in boaireċ, .i. leṫ norba an athar dia ingin iar ndibaḋ, cen sloiged, cen cis, cen congbail .i. tir ceiṫri seċt cumal ro bui oc an boairiġ is ferr and. Da seċt cumal comarda .i. do comardaiged re da seċt do cumalaib conad he ferann da ndenann in boaire medonaċ, no in boaire is taire a beṫugad. Leṫ in orba in athar don ingín iar nec inn athar; cen fuba cen ruba sin. Orba for set nimfaebair, .i. ferann do berar for conair .i. ime ada faebur, foebra la fine a cuingid cucu, foebraċ leisi a aisec uaiṫi.

C. 859.

.i. Ferann do berar ar canair aisic, ocus aemaebar lais in ti na geibend for raṫ fuidre; as aige eirnitear leth eneclann do neach, leath don ti do beir, ocus trian don ti da tabair. Eneclann don ti dombeir cinmota in seiseḋ rand déc ene-

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[1] *The crime*, i.e. the 'eric'-fine for crime.

[2] *A female heir.*—This gloss is an addition by a later hand, and in smaller letters.

[3] *The half of it reverts.*—In O'D. 422, the following somewhat different explanation of this is given:—

"But the one half of it is restored to the tribe whose property the land is by right, i.e. it is divided into two parts, like every other 'dibadh'-land, when there are sons in question, and if there were *only* daughters they take the one-half of it during their time (*the term of their natural lives*) with an obligation of restoring it after

A mother's land, &c., i.e. the land to which claim is estimated from the wealth of the mother, it is wealth to the person by whom the contract is made. Her sons from the days of her public testament, i.e. her sons shall own her share of it from the day that she made her will openly, i.e. her sons shall own it from the day of her death, i.e. 'crubh' and 'sliasta'-land is here divided as the crime[1] is divided before, i.e. a female heir[2] is here *referred to*, and her tribe is not obliged to restore to her, if the tribe property be nearer to the mother of the son in female succession than to the father, it is then the tribe claim by their right of partition, for it is her duty to bring her tribe-property to the tribe. But the half of it reverts,[3] i.e. but the half belonging to the owner of the land is restored to his tribe. And the force of the *particle* 'but' here is, because this is the land of the tribe, and 'crudh' and 'sliasta'-land *are referred to* before, i.e. the force of 'but' is, that no part of the land of the father which was his possession reverts, but his own proper land doth revert. The other half, i.e. the other moiety according to the true judgment, or *according* to the true judges. The seed of her flesh divide, i.e. it is partitioned to the seed of her flesh, *i.e.* her children. The son of an 'adaltrach'-woman of contract and the tribe *are* here *referred to*, and it is divided into two *equal parts* between them. The tribe by just partition, i.e. the tribe come to make partition of it according to right, and in this partition the tribe gives a land of twice seven 'cumhals' to the daughter of the highest 'bo-airech'-chief. There comes not by right of relationship, i.e. there comes not of relationship according to what is right. But the right land of a 'boaire'-chief, i.e. except the land of the 'bo-aire'-chief, i.e. half the land of the father *goes* to his daughter after his decease, without *the service of* hostings, without rent, without refection; i.e. a land of twenty-eight 'cumhals' had been in the possession of the 'bo-aire'-chief of best rank, in this case. Twice seven 'cumhals,' &c., &c., i.e. it was adjusted by twice seven 'cumhals,' so that it is the land by which the middle 'bo-aire'-chief or the lowest 'bo-aire'-chief feeds her. Half the land of the father *devolves* to the daughter after the death of the father; this is without *the services of* attack and defence. Land given up for a road, and respecting which there are obligations, i.e. land which is given for a road, i.e. concerning which there are two obligations, an obligation upon the tribe to demand it back, *and* an obligation upon her to give it up.

That is, land[4] which is given for a road is to be restored, and the obligation is on the person who does not receive it for the stock of the 'fuidhir'-tenant; it is by him half honor-price is paid to one, half to the person who gives, and one-third to the person to whom it is given. Honor-price to the person who gives it except the

[a] Ir. *Of.*

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their time, i.e. the force of the 'but' here is, he does not restore the land of his father which he had in his hands (*occupation*) but he restores his own proper land; or, indeed, their true land is restored to its tribe, and the force of the 'but' here is, for this is the land of the tribe, and it was 'crudh' and 'sliasta'-land we spoke of before.

"A land of seven 'cumhals' she had here and the half of it *goes* to her sons, and the half to her tribe, and she is an 'adaltrach'-woman *that is here treated of*."

[4] *Land*.—This commentary is found as a note on the lower margin of col. 2, p. 9, of the MS. E. 3. 5.

claindi don ti da tabair, cinmoṫa feisid .i. ni foriṫ a breṫ ocus a tabairt amuil ro gab tir focraiċe no airbiata .i. orba gaibter o flaiṫ no o eclais. Berti imurro, munaragbat cuir in bancomarba laisin fine; berti fine man ro gabat cuir leo. Is imaebur sin as da renar leṫdire.

As da ranar leithdire .i. is assein eirnither leṫ ineich do roich don tir deneclainn disi .i. leṫ a tire; a leaṫ naill as a toċus.

Cuiċ in imaebur a deir ann? .i. faebur laisin íngin ocus faebur laisin fine. Isseḋ a deir dligeḋ, faebur laisin fine im aisic don ingin in uair na bi mac and tareis in athar, ocus faebur laisin ingin a aisic aris don fine.

Slan fairgse mbrogaid mbruidrechta ingraide tire comdidan coímiṫeach. Ní direanar iar mo bí bliadain, acht beraib fochructa, ar nach cnead berlan re meraib is di caingean la feine.

Slan fairgse, .i. slanti aithgena a feoir a ferainn on ti bis ac firdechsin in bruig fris na coir dirgi, dia taid can acra co ro asa a rind for a feor. Ingraide tire, .i. ingraid a hindi a comaititin in comaithċi ina ṫir, .i. da aiċi no a trí etarbai itir do ceili. Ni direanar, .i. noco nadbul eirniter eiric ind iar firbiṫ do i naititin isin bliadain cen acra cor asa a rind fors in fer sin aris. Acht beraib fochructa, .i. aċt in fer do beir ar focraic do reir bafesa gnae no aibind, uair ce beiṫ nech a naititin a fochreca cen a acra cor fasa a rind for a feor, noco lugaiti dligus a fochraic dic sis. Ar nach cnead .i. ar naċ caín hai feoir berlan re meisamnact a acra de aca diultad, conac coir caingin ime do reir in féinechais, .i. itir crecht ocus fer ni hictar an aithgin aċt dire na gona ocus smaċt.

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[1] *Half 'dire'-fine.*—In O'D. 422-3, the following note is added:—"That is, half the thing which pertains to the land, i.e. half the part which is given to her out of her land, by the tribe, or indeed it is half to her out of her land property, i.e. it is out of that the one-half is paid by the person who gives, and one-third by the person to whom honor-price is given, except one-eighth to the person who gives honor-price, and one-sixth to the person to whom it is given, so that it is two-thirds of one-fourth of honor-price that is wanting to the person to whom it is given, which is equal to the one-sixth of the whole.

"Full honor-price *is given* to one for purity and worthiness and property, i.e. one half for purity and worthiness, and one half for property, both live cattle and dead chattels. The one-half which is on account of live cattle, i.e. the one-fourth of

sixteenth part of honor-price to the person to whom it is given, except one-sixth, i.e. its taking and its giving do not run like those of hired land, or refection land, i.e. land which is rented[a] from a chief or from a church. He (*the son*) takes it, however, unless the covenants of the female heir affect the tribe; the tribe take it unless they have verbal covenants. That is the obligation out of which half 'dire'-fine is paid.

OF TAKING LAWFUL POSSESSION.

[a] Ir. *Taken.*

Out of which half 'dire'-fine[1] is paid, i.e. it is out of this is paid half the part of the land which comes to her as honor-price, i.e. half her land; the other half out of her property.

What obligation is mentioned here? i.e. an obligation on the daughter and an obligation on the tribe. What the law says is, "let there be an obligation on the tribe as to restoring to the daughter when there is no son after *the death of* the father, and an obligation on the daughter to restore it (*the land*) again to the tribe.

In the 'Bruighrechta'-laws it is guiltless to look on cattle grazing on the jointly-fenced land of a co-occupant. Nothing shall be paid after the lapse of a year, but after the custom of hire, for every wound that is healed by arbitrators is not to be settled by the Feini.

It is guiltless to look on, i.e. restitution of the grass of his land need not be made by the person who is truly looking on the land, for whom it is not right to correct it, if it remain without being claimed until the top grows on the grass. Grazing on a farm, i.e. they graze the top *of the grass* in the land, the neighbour being cognizant of it, i.e. for two nights or three unprofitably on thy partner's land. Nothing shall be paid, i.e. 'eric'-fine shall not be paid for it after his being cognizant of it for a year without claiming, until its top grows upon that grass again. But after the custom of hire,[2] .e. but the grass which he lets for hire according to the good or pleasant custom, for though one should be cognizant of the hire without claiming it until the top grows on the grass, he is not the less entitled to have his hire paid to him. For every wound, i.e. for every damage to grass that is repaired by arbitration cannot be further sued for; 'de' is a negative, so that there is no further claim for it, according to the 'Feinechus'-law,[3] i.e. as regards[b] wound and grass, compensation is not paid, but the 'dire'-fine of the wound and 'smacht'-fine.

[b] Ir. *Between.*

honor-price, one-fourth for land and dead chattels, the half of that for land *alone*, so that it is the one-half of this is given to her, i.e. the sixteenth part. Or, indeed, it is a balance *that is struck* between land and dead chattels, or the one-sixteenth for either unless they are equalized according to arbitration."

[2] *But after the custom of hire.* In C. 859, the following note is given:—"But after the manner of hire. The custom of this is, whatever is contracted is enforced, but if no contract has been made, no payment is made, *so* the trespasses in the case of co-occupancy, unless they are claimed for within the year after the trespass, shall not be enforced."

[3] '*Feinechus*'-*law*. That is, whatever is submitted to arbitration and decided by it must be considered as finally settled. There can be no further appeal to the 'Feinechus'-law.

OF TAKING LAWFUL POSSESSION.

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.1. na cneḋa dono, munab acurtur ria slainti, ocus ni ro gab deiṫbire, ni hicar aithgin aċt colonn eric nama.

Ma ro follaiged in fear cin agra cur fas in faer eile na inaḋ, is dilsi na hai aithgina, ocus tairic in smaċta is in ni sin; ata eric a fogla do dul a rurad o duine, ocus is and ata aithgin do tuitim o duine tre na faill.

.1. Isead fuil sunn, duine ro bai a naiditain fogla comiċeasa do denam fris, ocus ro bai a faill gen a tacra cor fas a fer; íctair meiċ fris, ocus ni hictar aithgin, ocus is e sin aen ínead a ndilsigeann aithgin o duíne a faill do denam, ocus ní híctar othrus isin faill.

Sir cach sendligeḋ cacha criċe condealg. In tan is dicoindelg cach crich, is and berar cach digeand co rig.

Sir cach sendligeḋ, .i. isuṫain caċ sendeiligud, caċ deiligud dib so sis re ceile, no caċ dligeḋ sen dib re ceile, no caċ dligeḋ do reir na sen. In tan is dicoindeilg, .i. ín tan na bi breithem ac in bidbuiḋ no ac in feichemuin toicheda. Is and berar cach digeand co rig, .i. is ann berair cach dicenn cínadais ocus breithemnais ar amus in rig, uair is aici is doiġ ín tainceasach do bith. Digeand, .i. na dagabar da gleod.

Ni rig lais na biad geill i nglasaib, do na ṫabar chis flatha, do na eirenedar feich cana. In tan geibius in rig ina mama so, is and do ranar dire rig, gen gae, gen easbraṫ, cen eisindrucus fri a thuatha.

Ni rig, .i. noco rig is raiti ris mani rabat geill aice re comallad a rige no a ceillsine. Na tabar chis flatha, .i. daeraicillneċta, .i. braich. Feich cana, .i. smacht cana. In tan geibius in rig. .i. in tan gaibes in moamugad no in greim a dubramar romaind. Is and do ranar dire, .i. is and eirniter eneclann rig do co comlan, .i. na momodud sa, .i. giall, ocus cís, ocus smaċt. Gen gae .i. im breithemnus, no im gufiadnaisi, no im eisindracus do denam do.

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[1] *The wounds.* The Irish of these two paragraphs is found in the right margin of col. 2, p. 9, near the bottom.

[2] *His people.* See Vallancey Collect., vol. III., p. 89, for an attempt to translate this and other passages of the Brehon Laws.

That is, *as to* the wounds,[1] indeed, unless they are claimed for before they are healed, and no necessity interferes, no compensation is paid except body 'eric'-fine alone.

If it has been neglected to sue for the grass until other grass grew in its place, it is *a case of* forfeiture of the compensation, and a repayment of the 'smacht'-fine for that thing; the 'eric'-fine for the damage becomes obsolete to a person, and in this case compensation is lost to[a] a person through his neglect.

That is, the case here is *of* a man who was cognizant of the commission of a trespass of co-occupancy against him, and he neglected suing for it until the grass grew; sacks are paid for it, and compensation is not paid, and this is the only instance in which compensation is forfeited by a person through his neglect, and sick-maintenance is not paid for the neglect.

Constant is every old law of every territory of covenants. When any territory is uncovenanted, it is then every disputed case is brought before the king.

Constant is every old law, i.e. perpetual is every old arrangement, every decision of those which follow with each other, or every old law of them with each other, or every law according to the ancients. When uncovenanted, i.e. when the defendant or the plaintiff has not a Brehon. It is then every disputed case is brought before the king, i.e. it is then every disputed case of crime and judgment is brought before the king, for it is with him *the solution of* every difficulty is likely to be. Disputed case, i.e. the thing brought to be settled.

He is not a king who has not hostages in fetters, to whom the rent of a king is not given, to whom the fines of law are not paid. *But* when the king gets these submissions, it is then the 'dire'-fine of a king is paid, if he is free from[b] falsehood, from betrayal of his nobles, from unworthy conduct towards his people.[2]

He is not a king, i.e. he is not to be styled king unless he has hostages for preserving his kingship or his tenancy. To whom the rent of a king is not given, i.e. *the rent paid on* 'daer'-stock tenancy, i.e. malt. Fines of law, i.e. the 'smacht'-fine of the law. When the king gets, i.e. when he receives the submission or allegiance which we have mentioned before. It is then the 'dire'-fine is paid, i.e. it is then the honor-price of a king is completely paid to him, i.e. these submissions, i.e. hostage, rent, and 'smacht'-fine. Free from falsehood, i.e. respecting judgment *passed*, or false witness *borne*, or impropriety

[a] Ir. *Falls from.*

[b] Ir. *Without.*

Gen easbrat, .i. cen brath na nuasal; ocus noco dligtecha do brath na nísal. Cen eisindrucus, .i. im gufoirgell a dligiḋ, no im guin no im gait for a tuathaib; uair da roib ní dib sin aice, noco biad eneclann rig do co comlan.

Atait secht fiadnaise forgeallad gae cach rig; senad do fodaḋ ar a ṅairlisi; cen fir, cen dliged, dide aire, inge mad tar cert; maidm catha fair; nuna ina flaithius; disce mbleċta; millead measa; seol neatha. Ite secht mbeocaíndle and so forosnad gae cach rig.

Atait secht fiadnaise, .i. atait a secht amail fiadnaise forgles a gae for in cach is rig. Senad do fodaḋ, .i. senad na heclaisi dimpoḋ ass a uasal lis. Cen fir .i. im fiachaib cintci .i. cen cert. Cen dliged, .i. im fiachaib eiccintci do damċain doib. Dide aire .i. co hindligṫeċ. Inge mad tar cert .i. inge ar aċt, ata aċt lím and, mad ar taircsin dligiḋ do, nocon indligtech eisium andsaide. Maidm catha fair .i. re comlín a re dligtiġ, .i. leṫ log eneċ trechnais aire. Nuna .i. beṫ can ana, .i. gorta do bith ina flathuss. Disce mbleċta .i. disccae .i. bith can lacht .i. discailas in lachta. Millead measa, .i. iar na tairbsin, ocus milltir. Seol neatha, .i. seolad as in netha, innarba, no fuaill bec don arbar do bith and. Ite secht mbeocaíndle .i. itiat so anuas in sechta amail caínnil mbi fursandus no faillsiges a gae for in cach is rig.

Teora gua ata moam da fich dia for cach tuaith; fuilleam gu nadma; forgeall gufiadnaise; gubreath ar fochraic.

Teora gua, .i. teora gua eim is mesa indechas dia for na tuathaib. Fuilleam gu nadma .i. fuillem loigidechta do gabail ar gunascaireċt, ocus noco dlegar a gabail ciḋ ar fírnascaireċt .i. log do as a rad ata a nadmaim cin co be. Da fich dia, .i. do figland dia. Forgeall gufiadnaise, .i. in gufiadnaise dfoirgell do. Gubreath ar fochraic .i. na bretha gua do breith do ar deicreic loigideċta, ocus noco dlegar cid a mbreith an aisci.

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[1] *For hire.*—Vide Vall. Collect., p. 90, vol. iii. (No. X.)

done by him. **From betrayal,** i.e. without betrayal of the nobles; and it is not more lawful for him to betray the plebeians. **From unworthy conduct,** i.e. with respect to false decision of his law, or with respect to wounding or robbing his people; for if he had *been guilty of* any of these, he shall not have the honor-price of a king completely.

There are seven proofs which attest the falsehood of every king; to turn a synod out of their noble 'lis'-fort; to be without truth, without law, 'dide aire,' unless they (*the demands of the parties*) were beyond right; defeat in battle; dearth in his reign; dryness of cows; blight of fruit; scarcity of corn. These are the seven live candles which expose the falsehood of every king.

There are seven witnesses, i.e. there are seven things as it were witnesses which attest his falsehood against every king. **To turn a synod out,** i.e. to turn the synod of the church out of their noble 'lis'-fort (*meeting-place.*) **Without truth,** i.e. respecting certain fines, i.e. without justice. **Without law,** i.e. respecting ceding to them uncertain debts. **'Dide-aire,'** i.e. unlawfully. **Unless, &c., beyond right,** i.e. "unless" for 'but,' i.e. I make an exception here, if it is after offering of law by him, it is not unlawful for him then. **Defeat in battle,** i.e. by an equal number in a lawful battle field, i.e. half his price of honor is taken away on account of it. **Dearth,** i.e. to be without wealth, i.e. that famine should be in his reign. **Dryness of cows,** i.e. failure, i.e. to be without milk, i.e. destruction of the milk. **Blight of fruit,** i.e. after its appearance, and it is *afterwards* destroyed *in the bud.* **Scarcity of corn,** i.e. the disappearance of the corn, the vanishing of it, or a small quantity of corn being in existence. **These are the seven live candles,** i.e. these above are the seven things, as if living candles, which expose or exhibit to view his falsehood against every one who is a king.

There are three falsehoods which God most avenges upon every territory; additional gain by a false contract; decision by false witness; false judgment *given* for hire.[1]

Three falsehoods, i.e. there are indeed three falsehoods for which God takes worst vengeance upon the territories. **Additional gain by a false contract,** i.e. to receive additional reward for a false contract, when it is not lawful to receive it even for a true contract, i.e. to get reward by his saying that there is covenant where there is none. **Which God avenges,** i.e. for which God showers down his vengeance. **Decision by false witness,** i.e. to approve of false witness. **False judgment for hire,** i.e. false judgments to be passed by him for a payment or hire, when it is not lawful even to pass them gratis.

OF TAKING LAWFUL POSSESSION.

Atait ceithri nadm nad seadad ciad roiscaidear; mud for a flaith; mac for a athair; manach for a abaid; ulach for araile mad an aenar. Ar fofuaslaice flaith, ocus fine, ocus eaclas cach sochar ocus cach nochar focerdcar for a meamra, acht ni forcongrad; ar ate teora nadmand assa innsin naiscaidtear la feine: cor for meamra eacalsa, cor for fognamṫe flatha, cor for faenleagachaib fine. Ar do innṫai flaith, ocus fine, ocus eaclais cach cor na toltnaigter; ar dlegar doibrium na be lobtaiġ cor, ar dia mbad lobtaig seon cor, is and ni tinntatsom curu a memor.

Ar is annsom i mbreitheamaċt cor la feine cuir trene. Ar ate cuir treineacha la feine cach la fear dia urgaire, alaili dia forngaire, ar as do suide ata forcongair na durgair ínn ruid contuaire.

Atait ceithri nadm, .i. atait a cethrar do ní fonaidm, ocus noco nindsaigter orro cia ro guidea ind iat, .i. cor for memra i necmais a cenn; taithmigit na cind na curu fein mani bet tola doib, .i. is amlaiḋ sin ata, no íman smaċt dic annso cen co hicar in aithgin. Ciad roiscaidear, .i. cia ro airgiter forro. Mud for a flaith .i. senfaid ín flaith mad ail leis. Mac for a athair, .i. sic oc. Manach for a abaid, .i. co ra icat a cenna, .i. air is indsa don memor cachtad in cínd gaibid ima folta dib condarasbat a fritfolta. Ulach for araile, .i. daig senfaid ime, .i. ulach bis cen fiadnu cid i maċaire beit is amlaid sin bias. Ar fofuaslaice, .i. nad bad machtad cen tobach doib dib, uair fofuaslaiced caċ cor do gniat. Cach sochar, .i. cor comloigi. Cach nochar, .i. diubarta. Focerdcar for a meampa .i. ada curtar for a momoritnechaib, for a memraib; cid dono ar na taitmegdais no na senfadís in cundrad do dendais riu bodéin. Acht ni forcongrad, .i. aċt ini forcon-

OF TAKING LAWFUL POSSESSION.

There are four covenants which are not binding though they (*the parties*) are proceeded against; *that of* a bondman with his chief; *of* a son with his father; *of* a monk with his abbot; *of* an 'ulach'-person with another if alone. For the chief, and the tribe, and the church, will redeem (*rescind*) every good contract and every bad contract which are made with their subjects, except what they themselves order them; for these are the three defective covenants mentioned by the Feini; the covenant with a subject of a church, the covenant of a servitor of a chief, a covenant with fugitives from a tribe. For the chief, and the tribe, and the church, may annul every covenant *of this kind* to which they did not consent; for they are bound not to be remiss about covenants, because if they should be remiss about covenants, then they do not annul the covenants of their subjects.

For in the judgment of covenants with the Feini the covenants of three are difficult. The ternal covenants with the Feini are where one man commands it (*the covenant*) and another forbids, for to him is the command who has not forbidden what he has heard.

There are four covenants, i.e. there are four persons who make a covenant, and proceedings cannot be maintained *successfully* against them though they are sued for it, viz.:—a covenant with subjects in the absence of their chiefs; the chiefs dissolve these covenants unless they have given their consent to *the making of* them, i.e. it is thus it is, or 'smacht'-fine is paid in this case, though compensation is not paid. Though they are proceeded against, i.e. though they are sued. A bondman with his chief, i.e. the chief may repudiate it, if it so please him. A son with his father, i.e. sic oc. A monk with his abbot, i.e. until he pays for his crimes, for it is difficult for the subject to serve the chief who receives from him his property, until he receives his returns. An 'ulach'-person, i.e. because he will deny *all* about it, i.e. an 'ulach' who is without a witness, even though they be in the plain, it shall be so. Will redeem, i.e it is no wonder that they should not distrain them, for they redeem every contract which they make. Every good contract, i.e. every contract of full value. Every bad contract, i.e. frauds. Which are made with their subjects, i.e. which are put upon their dependants, upon their subjects; why then should they not dissolve or deny the contract which they should make with themselves (*the chiefs*). Except what they themselves order, i.e. but

OF TAKING LAWFUL POSSESSION.

grait bodein doib do denum re nech aile, uair noco cuimgech a taiṫmechride, aċt amuil do genat a cunnrad fen. Ar ate teora nadmand, .i. ar ate tri nadmann insin fonaisciter da naisneidenn in fenechas, ocus is esbadach a ba a maiṫ on ti do ni iat. Cor for meamra eacalsa, .i. i necmais. Cor for fognamṫe flatha, .i. cunnrad do denam ris in luċt bis ac fognam don ḟlaith. Cor for faenleagachaib, .i. corcurtar ar na fannelodachaib bís don fíne. Ar doinnṫai flaith ocus fine, .i. uair impaigid in flaith, ocus in eclais, ocus in fine caċ cunnrad naċ toltanach a memair, ocus ise cuít in ar and, uair i dubramar romaind ata tri nadmanna essa, .i. seoit uil itir sochaide and sin, ocus in ti ro rec a cuit de is dilus uad he, ocus in ti na ro rec noco dilus uad he. Ar dlegar doib, .i. uair dlegar doibsium nar ab lentaig no nar lictaig ac tobach na cor nindligtech do niat a memair, .i. narbat liuntaig tobaig iar fis cor. Ar diambad lobtaig, .i. ar diambat laebtaig sium no diambat lictaig cen taideċt fo na coraib. Is and ni tinntatsom, .i. is ann sin ni tindtatsum, no noco tenndoirtit as na cuir do niat a memair im taideċt futhaib.

Ar is annsom, .i. uair is do na neichib is doilgi a mbreithemnus na cor do reir in fenechais. Cuir trene .i. cuír tri nech no tri nog. Alaili dia forngaire, .i. ac forcongair a denma .i. anncurgaire a nemdenma. Ar is dosuide ata forcongair, .i. ar ís do niadaisin ata conad inand do neoċ ocus do neiċ forcongair a denma mana derna urgaire a nemdenma.

Atait tri nadmanda la feine nad roithead ní anaicaidter. Digaib do log eneach eireach no seagad naidm for neach ro finntar for urfocra; naidm corusa gaide la gadaige gin ni gada faderin; forcraid coibċe fri eachlaid; ar atait da achlaid cor la feine, bean fris tabar coibċe naidnaigead, ocus fer do beir coibche mor fri baidsig for na scara dilsi. Ara ate

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[1] *The ternal covenants.*—In C. 860, the following note is added:—

"Ternal covenants, i.e. of three persons, i.e. three contracts upon him, i.e. with a chief, with the church, and with an extern tribe, whichever it be his share is forfeit.

[2] *Forbids.* Dr. O'Donovan read as in the text the first syllable of the word 'anncurgaire'; in the MS. there is simply 'a' with two diagonal strokes over it; the usual contraction for 'n' being a horizontal stroke over the letter which 'n' should follow. The reading would thus be "ac urgaire." The reading in C. 860 is "forridcongair."

OF TAKING LAWFUL POSSESSION.

what they themselves order them to make with another person, for they are not able to dissolve these, but as they would their own contract. For these are the three *defective* covenants, i.e. for these are the three covenants which are contracted of which the 'Fenechus'-law makes mention, and their 'ba' *i.e.* their good is defective from the persons who make them. The covenant with a subject of a church, i.e. in the absence *of the heads.* The covenant of a servitor of a chief, i.e. a covenant which is made with those people who are doing service to a chief. A covenant with fugitives *from a tribe*, i.e. a contract made with the fugitives who are of the tribe. For the chief and the tribe, &c., may annul, i.e. for the chief, and the church, and the tribe, abrogate every contract with which their subjects are not satisfied; and the force of the 'for' here is, for we said before there are three defective covenants, i.e. a 'sed' which is between (*owned by*) many persons is here *referred to*, and the person who sold his share of it, forfeits it, and *as to* the person who did not sell it, it is not forfeited by him. For they are bound, i.e. for it is right for them that they be not remiss or negligent in setting aside the unlawful contracts which their subjects make, i.e. that they be not remiss in setting them aside after knowledge of the contracts. Because if they should be remiss, i.e. for if they should be negligent, or if they should be remiss, and not impugn the covenants. Then they do not annul the covenants, i.e. it is then they do not set aside, or they do not abrogate the contracts which their subjects make, by opposing them.

For they are difficult, i.e. for they are among the things that are most difficult in the judgment of the covenants according to the 'Fenechus'-law. The ternal covenants,[1] i.e. the contracts of three persons or three parties. One man commands it, i.e. commands the doing of it, i.e. forbids[2] the non-doing of it. For to him is the command, i.e. for it is from that principle is *derived* that it is the same to one to command its doing and to forbid its non-doing.

There are three covenants with the Feini, which do not amount to the thing stipulated. It takes from the honor price of a chief who sues upon a covenant with a person who is known to be proclaimed; a covenant concerning stolen property with a thief, although he did not steal it himself; *to give* too great a nuptial present to an 'eachlach'-person; for there are two 'achlaidh' covenants with the Feini, *the case of* a woman with whom the nuptial present of a married woman is given, and *the case of* a man who gives a large nuptial present to a harlot for her lawful divorce. For these are the covenants

OF TAKING LAWFUL POSSESSION.

cuir innsin nadroiṫead co trian ro suidigead aniubartaib cor la feine.

Acht urgarṫa cor la feine, ni dilear ni gen airilliud, ar nach craide is earlan íníaid a coibche, dligid slan craiḋe a reir breitheaman, acht uair no urgairt no egmacht.

Atait tri nadmanda, .i. do ni fonaidm da nairneidenn in feneċus, ocus noco ro indsaiget ini in arucesced iat, no in a ruca togait. Digaib do log eneach, .i. digbaid do log a enech in airech indsaiges iat co fis do naċa dligenn, no is troscad tar dligeḋ, .i. in turfocraid; ticfait in fine fo ċoraib, .i. fis furfocra ac trebuiri in urradus; no gin tuillmideċta a cain, ocus ní uil ac feichemuin toicheda; aithgin dic do trebuiri, ocus noco nictar ní risin trebuiri no co tairistar in cintaċ. Naidm for neach .i naidm do taet do ċind ind aendleaġaiḋ co nicann; digbaiḋ dia eineclainn in meit ro dibastar dia tochus. Naidm corusa gaide, .i. is eisindracus a fis coir dul a trebuiri re dilsi in treoit gaiti tar cenn in gataidi cín cob gataidí he bodéin.

.i. Ni asdann treabaire ni and sin, ocus ce tarraigtear gadaige ní hicann ní re fer medon gaide lan inndligṫaċ, aċt muna fuil trebaire do re digbail a laim dic fris.

Forcraid coibċe .i. imarcraid coibċi don ti ar a neillgiter, amuil aire for each, uair is forcraiḋ ní ria itir aċt log a cenbair no a caille. Ar atait da achlaid cor .i. ata deidi ar a neillgiter cor, amuil aire for ech, da nairneidend in fenechass, .i. da cor focerdaiter fri heċlacha. Bean fris tabar coibċe .i. in turnaidm nídnaiḋi 7rl. Fer do beir coibche mor, .i. baidsech caċ be taide, no caċ ben deirge lann, .i. urnaidm cen imfolta ar a cend. For na scara, .i. cia fonaiscither a dilsi di. Ara ate cuir innsin, .i. ar íte cuir insin ocus noco ro indsaigter cíd co trian na cor ndligṫeċ. Ro suidigead, .i. ro samaiged, no ro hordaiged a nuran eiserṫaib na cor da nairneidenn in fenechas. Acht urgarṫa .i. aċt na cuir urgairṫe sea anuas da nairneidenn in fenechus, uair taithmiter uile iatsaide, .i. acht na cuir urgairṫi seo, ni diles cen ni don airilliuḋ do facbail fri cuiru bel do reir na feine .i. trian. Gen airilliud .i. noco diles ní itir cen a

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[1] *In case of poverty.* In C. 2,742, 'uais,' as a degree of poverty, is distinguished from 'angbocht,' 'extreme poverty.'

[2] '*Eachlach-person.*' In C. 860, 'hechlagh' is glossed "'merdrech,' a woman to whom a 'nuptial'-present is given, .i. is echluiġ cor insin, she is an 'echlach' of engagements then," 'Merdrech' is the Latin 'meretrix.' *Vide* also, C. 264.

[3] *Forbidden contracts.* In O'D. 425, these forbidden contracts are said to be:—that of the son of a living father, that of a person without property, &c.

which amount only to one-third of what has been ordained in fraudulent covenants by the Feini.

Except the covenants which are forbidden by the Feini, nothing is due without deserving it, for every property which is unsafe is entitled, after nuptial present, to be safe according to the Brehon, except *in case of* poverty[1] or prohibition or want of *lawful* power.

There are three covenants, i.e. *there are three* who make contracts mentioned by the Feini, and they do not attain to the thing which they agree for, or as to which they got a choice. It takes from the honor-price, i.e. it subtracts from the price of the honour of the chief who sues for them, knowing that he is not entitled to do so, or it is fasting in excess of what is legal,[a] i.e. the proclaimed person; the tribe will oppose his contracts, i.e. the surety in 'urradhus'-law having knowledge of the proclamation; or he being without merits in 'cain'-law, and the defendant has not *knowledge thereof*, compensation is to be paid by the surety, but nothing is to be paid by the surety until the guilty person is apprehended. A covenant with a person *proclaimed*, i.e. a covenant which is made for a fugitive until he pays; it lessens his 'eric'-claim as much as it subtracts from his wealth. A covenant with a thief, i.e. it is impropriety *for one* who has[b] true knowledge to go security for the lawfulness of stolen property for a thief although he is not a thief himself.

[a] Ir. *Beyond law.*

[b] Ir. *In.*

The surety does not bind anything here, and though the thief be apprehended, he does not pay to the fully unlawful middle theft man, unless he has security for the payment of the emptying of his hand to him.

Too great a nuptial present *to an 'eachlach'-person*,[2] i.e. too great a nuptial present by the person of whom it is demanded, as 'a load on a horse,' for anything given to her is overmuch, except the price of her head dress or cowl. For there are two 'achlaidh' covenants, i.e. there are two of whom contracts are sued, like 'a load on a horse,' which the Fenechus mentions, i.e. two contracts which are made with 'echlach'-persons. A woman with whom the nuptial present is given, i.e. the unlawful contract, &c. A man who gives a large nuptial present, i.e. every secret woman is a harlot, or every woman who deserts her house is a strumpet, i.e. there is a covenant without property concerning her. For her divorce, i.e. when her right is due to her by contract. For these are the covenants, i.e. for these are the compacts which do not extend but to one-third of the lawful contracts. What has been ordained, i.e. what has been settled or ordained in the scale of estimating covenants of which the Fenechus treats. Except *the covenants* which are forbidden, i.e. except the above forbidden contracts which the Fenechus mentions, for they are all dissolved, i.e. except these forbidden contracts,[3] it is not lawful not to have a part of the thing deserved under expressed contracts according to the Feini, i.e. one-third. Without deserving it, i.e. nothing is lawful at all for which its full value has not been paid. For

OF TAKING LAWFUL POSSESSION.

Luaḋ fola lanloigi dar a ċend. Ar nach craide, .i. cach craidi bes eslan inlaid a coboigi cuir ocus cundarta. Dligid slan craiḋe, .i. dligid slaintiugugad a craidi amuil is riar do breithemain, no amuil a dera in breithem ar a reir. Acht uais no urgairt, .i. tabairt, .i. naidm for nech ro fitir forrócra, .i. naidm corusa gaiti la gataiḋe. No esmacht, .i. forcraid coibċi fri heċlaiġ, uair naidm indligṫeċ sin, ocus noco nastait ní, .i. ar eicin, no fal fir crenus i mbecluaġ, .i. cor da sochond co fis co trebuiri, no dono, cor for memru.

Atait tri dond naidm nairscaidter la feine diceanglad a feiċeamna: bean fri tabar coibche, indichliġ seach a athair; mad ar diċeall an athar, as athair aen dan in coibche sin; cor focerdcar seach aga fine ada cora do beith oga; cor faesma focerdcar seoch fine nurnaige. Ar ate donadmand innso diceanglad a feicheamna nadad cora do nadmaidm.

Atait tri dond naidm, .i. tri nadmanda fonaisciter itai da naisneidenn in fenechus. Diceanglad, .i. di aca diultad, cona cenglat na trebuiri na feicheamna dara tecait cend, .i. cia focerdaiter do aithbiar. Bean fri tabar coibche .i. manab comcineol, no manab coibċi techta, cid comceneoil. Mad ar diċeall, .i. mad ar fach dichle in nathar do neter sin. As athair aen, .i. is lais in athair a oenfer in coibċi sin, ocus is dilus in ben dono on ti dia tabar.

.i. Mad ro fidir in ingean conaḋ ar daiġain dichle an athar do gneter fonaidm a coibċe di, cid urrunnus no dleisead in tathair don coibċe, tuillter sis do setaib ro dilsib na mna fein, co raib coibċe comlan ann; ocus cia do gne in bean cinnta indleisdea coibċe no urrunnus do coibċe, ni hicann in tathair ní de; muna fidir imurro, in ingean com ar faṫ dichle do gneṫea, [is] slan di, ocus icaiḋ in ti do rine in turnaidm. O'D. 426.

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[1] *Contract and covenant.* In O'D. 425 "a coboiġi cunnurṫa" is glossed thus: ".i. ima diburt ainfesa no trebuire do taiṫmiuch amuil is riar do breithemuin .i. in trian cor mbel, oc in fir creanus facabar in trian. Fraudulent contracts as regards ignorance or security are to be dissolved as is the rule with the Brehon, i.e. the third of express contracts, with the man who buys the third is left."

OF TAKING LAWFUL POSSESSION.

every property, i.e. every property which is unsafe after her perfect dower of contract and covenant.[1] Is entitled, &c., to be safe, i.e. her property is entitled to be made secure according to the sentence of the Brehon, or as the Brehon shall say respecting it. Except poverty or prohibition, i.e. *as to* giving, i.e. a covenant with one who knows the proclamation, i.e. a covenant concerning stolen property with a thief. Or want of power, i.e. giving overmuch nuptial present to a harlot, for that is an unlawful covenant, and nothing renders it binding, i.e. by violence, or the bar (*barrier*) of a man who purchases for small value, i.e. the covenant of two sane persons with knowledge and warranty, or *according to others*, a covenant with subjects.

There are three covenants entered into by the Feini which the parties who have claims[2] dissolve—*that of* a woman to whom a nuptial present is given, if concealed from her father, (if concealed from the father, it is to the father alone this nuptial present is due) ; a covenant which is made without *the knowledge of* the chief of a tribe, who ought to be *present* with them ; a contract of adoption which is made unknown to the petitioning tribe. For these are the bad covenants which the parties having claims dissolve, and which are not binding.

There are three covenants, i.e. three covenants there are which are fastened, as mentioned in the 'Fenechus'-law. Dissolve, i.e. 'di' is a negative, *i.e.* the sureties do not bind the parties for whom they enter into security, i.e. although it may be cast upon them as a reproach. A woman to whom a nuptial present is given, i.e. unless she be of equal family, or unless it be a lawful nuptial present though she may be of equal family. If concealed, i.e. if it be for the purpose of defrauding the father this is done. It is to the father alone, i.e. it is to the father alone this nuptial present belongs, and the woman is forfeited by the person by whom it is given.

If the daughter knows that it is for the sake of defrauding the father the covenant of her nuptial present is made with her, whatever proportion of the nuptial present the father is entitled to, he is to be paid it in 'seds' out of the woman's own lawful property, until a complete nuptial present is made up ; and though the woman should commit a crime for which her nuptial present, or a portion of her nuptial present is liable, the father pays no part of it ; but if the daughter does not know that it was done for the purpose of defrauding, she is guiltless, and the person who makes the contract *of marriage* shall pay.

[2] *The parties who have claims.* The term 'ꝼeıċeaṁ' means either creditor or debtor. It is found also in the sense of an advocate or pleader. Here it seems to mean the persons whose authority was necessary to render these contracts binding.

OF TAKING LAWFUL POSSESSION.

Cor focerdcar seach aga fine, .i. in cor curtar sech in ogae bis don fine, .i. flaith geilfine. Ada cora do beith oga, .i. is coru a bith aca denam. Cor faesma .i. in cor curtar risin mac faesma an fine, ocus ni ar feidm gaire o geilfine. Seoch fine nurnaige .i. sech in fine bis ac urnaide a cinad. Ar ate donadmand innso diceanglad, .i. uair is iat so na nadmann fonaiscitер acai; ocus de aca diultad, co na cenglat na trebuiri na feichemain tar a tecait cend. Nadad cora, .i. noco coir a fonaidm.

Leath cacha cet coibche cacha mna dia haġa fine, mad iar negaib a athar, mad he folo a chinaid; trian don tanisde, ceathraime don treass coibche. Mad cumscaideċ co ndeithbire o ta suide, consoglaigtear a comslechtaib feine; ar ita cuit a coibċe cacha mna dia haġa fine, amail fil a cuit a nabad baidside. Is for sund do feisidear breaṫa buain ocus ambuain la feine.

Leath cacha cet coibche, .i. ni berar inso carab dilus don mnai. Is aire is lugu berair on mnai o mencnigter a lecud, corab lugaidi leictear imad a aindille. Dia haġa fine, .i. don ogae bis don fine.

.1. Muna marann in taithir a leṫ altrum on aiġe fine, no leit iarraiḃ le ocus urnaidm do comchineol, ocus trian tinoil le do cum caċ fir gus a raċa; ocus cid minic do nitear a hurnaidm re haen fer, noco dlegar trian tinoil le act aen feaċt. Ma mairaiḃ imurro in tathair, a leṫ iarriḃ no leaṫ altrum on athair, ocus urnaidm do comcinol; ocus trian tinoil le do cum caċ fir gus a raċa 7rl; aiṁuil ata a mbretaiḃ eidgid.

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[1] *To the head of the tribe.*—The Irish gloss may also mean, 'to the most perfect person who is of the tribe.'

[2] '*Tinol*'-*marriage collection.*—'*Tinol*' was the collection of gifts which the relatives and friends presented to the woman on her marriage. Vide vol. 2, page 346, *n.* 3.

[3] *But once.* That is, if she was divorced and afterwards married to the same man. In O'D. 425, it is added that it is lawful to marry her to the seventh person; from that out, she is considered a 'gabul baidbe.'

[4] *Judgments of* '*Eidgedh.*' Vid. vol. 3, *pp.* 88–97.

Of taking Lawful Possession.

A contract which is made without *the knowledge of* the chief of a tribe, i.e. the contract which is made without *the knowledge of* the head of the tribe, i.e. the 'geilfine'-chief. Who ought to be with them, i.e. it is right that he should be at the making of it. A contract of adoption, i.e. a covenant which is made with the adopted son of the tribe, and it is not for the use of future maintenance from the 'geilfine'-division. Unknown to the petitioning tribe, i.e. without the tribe which is petitioning for *the payment of* his crimes. For these are the bad covenants, &c., i.e. for these are the covenants which being made are again dissolved; and 'de' is a negative, *i.e.* the sureties do not bind the debtors for whom they enter into security. Which are not binding, i.e. it is not right to fasten them.

Half of each first nuptial present of every woman *is due* to the head of her tribe, if *married* after the death of her father, if it be he that had sustained (*paid for*) his crimes; one-third of the second, *and* one-fourth of the third nuptial present. If she goes away of necessity from that out, it (*the nuptial present*) shall be distributed according to the arrangements of the Feini; for a share of the nuptial present of every woman is *due* to the head of her tribe, as he has his share in the 'abad'-gains of a harlot. It is by this the judgments of every proper and improper woman are known among the Feini.

Half of each first nuptial present, i.e. this is not given until it is lawfully due to the woman. The reason that less is taken from the woman because she has been put away frequently is that the quantity of her cattle is left fewer. To the head of her tribe, i.e. to the head of the tribe.[1]

If the father is not living half *the price of* her fosterage *is paid* by the chief of the tribe, or, *according to others, she shall bring*[a] one-half price of fosterage in marriage with one of the same tribe, and one-third of the 'tinol'-marriage-collection[2] to every man to whom she goes; and however often she may have been contracted to one man, it is not required by law that she should bring the third of the 'tinol'-marriage-collection with her *but once.*[3] But if the father is living, her half fosterage-price, or half the *expense of her* fosterage is paid by[b] the father, in case of[c] marriage with one of equal family; and one-third of the 'tinol'-marriage-collection *is brought* by her to every man to whom she goes, &c., as it is *set forth* in the judgments of 'Eidgedh.'[4]

[a] Ir. *With her.*

[b] Ir. *From.*

[c] Ir. *And.*

OF TAKING LAWFUL POSSESSION.

Mad iar negaib a athar, .i. in ti is nesa is ann ata sin. Mad he folo a chinaid, .i. mad he in taigi fine imfuilnges a cinta. Trian don tanisde, .i. as in coibchi tanaisde, .i. is in coibċe tanaisde is dá trian no beireaḋ a athair ann; ocus is aire is luġa beireas braṫair oldas athair, uair is luġa is diċra lais urail na hingine im trian tinol da freisci a tochus uaiṫe. Mad cumscaideċ .i. i mbas, no cora nodascara, .i. uair is e cuit in maċtnaigṫi, damad tre na hindeithbirius do neithea in tímscar na aiscebad uadsum in cutruma do berad don coibche. O ta suide, .i. o ta aisnis dam do níadairsin, .i. don indscuchaḋ co ndeiṫbire. Confoglaigtear, .i. is caín fodeiligter hi a cuma sloindtib in fenechais ima dul is in roind is nesa. Ar ita cuit a coibċe, .i. ar ata cuit i coibċi caċa mna don ogae bis don fine, amuil in cuit ata do a ndul cus in mnai mbaith cus a ṫiagar tar araḋ; ocus is as sin gabair, a bith do coníci in aenmaḋ rann fichit, uair ised sin ata do is in meirdris a ndul cuici ar eicin, cid meirdreċ aees, cid meirdrech nad aeeann; ocus fodail eneclainni do fo aicneḋ a coibdelaċais ina fodlaib aili. A cuit, .i. do smacht. Is for sund do feisidar, .i. is for sunn tairisdter breta buain ocus ambuain na mban dligṫech, ocus ambuain na mban nindligṫech. Buain, .i. maith, .i. dagban. Ambuain, .i. olc .i. drochban.

If after the death of her father, i.e. in the case of him who is the next person *to the chief* this is so. If it be he that had sustained his crimes, i.e. if it be the head of the tribe that bears *the weight* of his crimes. One-third of the second, i.e. of the second nuptial present, it is of the second nuptial present her father, *if living*, would have had two-thirds; and a brother gets less than a father because he is less anxious to command the girl respecting the third of her 'tinol'-marriage-collection, if her property is gone from her. If she goes away *of necessity*, i.e. by death; or is divorced; for the force of the doubt is, if it be without necessity she separates, it shall not take away from him the proportion of the nuptial present which he would get. From that out, i.e. as I am treating of this case, i.e. the going away with necessity. It shall be distributed, i.e. it is fairly distributed according to the arrangements of the 'Fenechus'-law with respect to its going to the nearest division. For a share of the nuptial present, i.e. for there is a share of the nuptial present of every woman due to the head of the tribe, as he has a share for going to the lewd woman, to whom approach is had notwithstanding notice; and from this is derived *the custom* that he has it (*a share*) to the twenty-first *case*, for this is his right in the *case of the* harlot, for going in unto her by force, whether she be a harlot who sells or a harlot who does not sell; and the honor-price is divided by him according to the nature of her relatives, into other distributions. His share, i.e. of the 'smacht'-fine. It is by this are known, i.e. it is by this the judgments of the good and bad women are passed, i.e. of the lawful and unlawful women. Proper, i.e. good, i.e. of good women. Improper, i.e. of bad, i.e. of bad women.

OF TAKING LAWFUL POSSESSION.

breatha comaithcesa andso.

JUDGMENTS OF CO-TENANCY HERE.

BREATHA COMAITHCESA ANDSO.

JUDGMENTS OF CO-TENANCY.

Cid ar a neibenar comaithces? Cumagnais andsin, ar in ni is comaith gnais caich dia raili do lomrad smachta ocus cáiche; araili is comaithces ar in ni is cuma no do gaib aire fri aithech, ocus airchindech fri bachlaċ.

Breatha comaithcesa .i. breiṫemnus ro berar umun cumaiṫecus, umun aiṫeċus cumaide, no umun cumagnas, umun gnas cumaide, .i. um an gnaṫuġaḋ cumaide.

Cid ar a neibenar comaithces, .i. cid ar a raiter no ar a nairneidter in taiṫechus cumaide. Cumagnais andsin .i. gnaṫuġaḋ cumaide annsin. Ar in ni is comaith gnais caich dia raili .i. ar is commaiṫ gnaṫuġaḋ cáiċ dib re ċéili. Smachta .i. na méich. Cáiche .i. in ḟiach duine caiṫe .i. muna ndentar go dliġteċ in comaiṫces. Araili is comaithces .i. gne eile is aiṫechus cumaide. Ar in ni is cuma no do gaib .i. ar in ḟaṫ is comméitt, no is cutruma dlegur don aire graḋ ḟlaṫa a gabail ris in aire graḋ feine, ocus airchinnech na cilli a gabail re baċlach is in ċill.

Cair,—can forbeir coimaithces? Ail comarbus. Cia cruthraige? Conrandat comarba cetamus a randa ocus a realba, ocus imfen cach dib fri araile, ocus do beir cach dib diguin dia raile.

Cair,—can forbeir coimaithces, .i. comaircim canas a foirbre in taiṫeċus cumaiḋe. Ail comarbus, .i. as in ċaoin orbu uais, as in fearann. Cia cruthraige, .i. cia gne siḋe. Conrandat comarba, .i. is caoin urrannaitt na coiméttaiḋe orbu in ferann don cétna hamus lium airneis no innisin de. A randa, .i. tir ndibuiḋ. A realba, .i. fearann athar ocus senathur. Imfen cach dib fri araile, .i. dibi naiġiḋ a ċéili. Do beir cach dib diguin, .i. gell da screapall ro comall in comaiṫcesa, .i. di fo diultaḋ, conach roiċ cin indili ċaich do ċum a ċeili.

[1] *Airchinnech.*—The steward of the church lands, or the ecclesiastical holder of the church lands. He was a layman, but had *primam tonsuram.*

JUDGMENTS OF CO-TENANCY HERE.

Judgments of Co-tenancy

WHY is co-tenancy so called? That is equal customs ('cumagnais'), because the customs are equally good for all reciprocally to levy 'smacht'-fines and penalties; *or*, otherwise, it is co-tenancy, because it affects the chief equally ('cuma') with the plebeian ('aithech'), and the 'airchinnech'[1] the same as the shepherd.

Judgments of co-tenancy, i.e. these are judgments that are passed concerning the common tenancy, concerning the holding in common, or concerning the common custom, the common usage, i.e. concerning the common custom *of holding land.*

Why is co-tenancy so called? i.e. why is the holding in common so called or denominated. Equal customs, i.e. that is common usage. Because the customs are equally good for all, i.e. because the usage is equally good ('commaith') for all reciprocally. 'Smacht'-fines, i.e. the sacks. Penalties, i.e. the fine for man-trespass, i.e. *which are imposed*, unless the common custom ('comaithces') is lawfully observed. *Or*, otherwise it is co-tenancy, i.e. another reason *why it is so called is*, it is a common holding. Because it affects, &c., i.e. for the reason that it is in an equal degree, or in the same proportion that the chief of lordly grade and the chief of the Feini grade are bound to receive it, and the 'airchinnech' of the church is to receive it the same as a shepherd in the church.

Question—Whence does co-tenancy arise?—From several heirs. In what manner is this?—The heirs, in the first place, partition their shares and their possessions, and each of them guards against the other, and each of them gives *a pledge of* indemnification to the other.

Question—Whence does co-tenancy arise? i.e. I ask whence does the common custom arise?—From several heirs, i.e. from the noble heirs *encreasing* on the land. In what manner is this? i.e. in what way is this?—The heirs partition, i.e. the landholders fairly divide the land in the first place, of which I shall relate or tell. Their shares, i.e. their 'dibadh'-land. Their possessions, i.e. the father's or the grand-father's lands. Each of them guards against the other, i.e. each of them against the other. Each of them gives *a pledge of* indemnification, i.e. a pledge of two 'screpalls' to observe *the law of* the co-tenancy; i.e. 'di' is a negative, that *the fine for* the injury done by the cattle of each would not fall upon the other.[a]

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[a] *To the other.*—There seems to be some error or defect in the MS. here.

JUDGMENTS OF CO-TENANCY.

Cair—Cid dofet a comaices? Dofet rand ime. Cach ime co na smaċtaib, cach tairgilli cona caiche; ar i mbiat smaċta ni biat caiche; i mbiat caiche ni biat smaċta. Imdingaib naidm naesaib.

Cair—Cid dofet a comaices, .i. comaircim cid is remṫeċtach isin aiṫechus cumaide. Dofet rand ime, .i. is remteċtaiġiḋ lium roinn in ferainn na ime do denam. Cach ime co na smaċtaib, .i. cac ime gus in ni smactaigter aga denam, .i. ramu fri clais, soc fri coraid, biail fri duirime, fidba fri felma. Cach tairgilli cona caiche, .i. na meiċ .i. caċ gell toiriṫnech no in fiaċ duine caiṫe. Cona caiche .i. gell da screpall. Ar i mbiat smaċta ni biat caiche, .i. in uair bias ini smaċtaigter ann, in ramu ocus in soc fri coraid, noċa biaḋ ini do berar is na cintaib .i. na meiċ no in fiach duine caiċe. I mbiat caiche ni biat smaċta, .i. in uair bet na meiċ no in fiaċ duine-chaiṫe noċa biaḋ in ramaḋ fri clais ocus in soc fri coraḋ. Imdingaib naidm naesaib, .i. is eim dingbaiṫher do reir nuafeasa conaċ naidm nascaire uil re comallaḋ in comaiṫcesa, aċt ma geall.

Cair—Codentar comaices? Anrandtar aile ar treisi; ingaibtar aile ime dia cuicti; imforcindtar aile dia dechmaide; incomalltar og ime dia mis.

Cair—Codentar comaices, .i. comaircim cinnus do nither in taiṫeċus cumaide. Anrandtar aile ar treise, .i. urranntar in fearann uma ndentar in taile ar tréisi. Ingaibtar aile ime dia cuicti, .i. gabur aile do denam i forbu cúicti úime, ocus da lá dóib re buain feaḋa. Imforcindtar aile dia dechmaide, .i. fírcindter im noct aile dú toraċt i forbu deċmaide, cinmóta in ċír draiġin. Incomalltar og ime dia mis, .i. comlanaigter in ime comlan to toractain a forbu in mis.

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[1] *Pledge.*—'Targille' here signifies a pledge of two 'screpalls' lodged with a neighbour for the payment of damages.

[2] *Completed in a month.*—Dr. O'Donovan has made the following remark on this point:—"The language is here very rude and unsatisfactory. It could be im-

JUDGMENTS OF CO-TENANCY.

Question—What is the first thing in the co-tenancy?—The division precedes fences. Every fence is liable to[a] legal conditions; every pledge[1] to damages; where the requisites commanded by law are *observed* there are no penalties; where there are fines, the things commanded by law are not *observed.* The new custom avoids security.

Question—What is the first thing, i.e. I ask what comes foremost in the common co-tenancy?—The division precedes fences, i.e. I deem it foremost that the division of the land should be made before the fences. Every fence, is liable to legal conditions, i.e. every fence should be made by what the law commands, i.e. a spade for *making* a trench, a bar for a stone fence, a hatchet for a strong fence, a billhook for a 'felma'-fence. Every pledge to damages, i.e. the sacks, every relieving pledge, or the fine for man-trespass. To damages, a pledge of two 'screpalls.' Where the requisites commanded by law are *observed*, i.e. where the thing commanded is observed, *i.e.* the spade *for a trench*, and the bar for a stone wall, the things to be paid in for the faults are not to be given, i.e. the sacks or the fines for man-trespass. Where there are fines the things commanded by law are not *observed*, i.e. when the sacks or the penalties for man-trespass are *due*, the spade has not been *brought* for *making* the trench, and the bar for the stone-fence. The new custom, i.e. it is well avoided by (*according to*) new knowledge that it is not the warranty of a surety that is *given* to observe the co-tenancy *law*, but a pledge.

Question—How is a co-tenancy made?—It is divided in three days for the stakes; the fencing is begun in five days; the fence is finished in ten days; the perfect fence is completed in a month.[2]

Question—How is a co-tenancy made, i.e. I ask how is the common tenancy made?—It is divided in three days, i.e. the land on which the stake (*palisade*) fence is to be made is divided in three days. The fencing is begun in five days, i.e. the fence is commenced to be made at the end of five days, and two days *are allowed* to them to cut its wood. The fence is finished in ten days, i.e, it is truly finished as to its reaching *the condition of* a naked palisading at the end of ten days, excepting the blackthorn crest *at top*. The perfect fence is completed in a month, i.e. the complete fence is brought to its completion at the expiration of the month.

proved thus: Quære—How is a farm of common occupancy formed?—In three days the land is marked out for fencing. The fencing must be commenced in five days (of which two days are allowed for cutting the timber). In ten days the fences must be set up and finished, with the exception of the blackthorn crest at top, which must be completed a month after the work has been commenced."

[a] Ir. *With.*

JUDGMENTS OF CO-TENANCY.
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Cair—Cadiat smachtaime ocus comaicesa? Smachta ime, rama fri clais, soc fri coraid, biail fri dairime, fidbad fri felmad. Dairt cacha treisi nadimcoir rainde ro seola fair. Ceithre ime do cuirin: clais cora, duirime, felmad. Araile, is dairt cacha treisi nadimcoir rainde fri cach nime.

Cair—Cadiat smachta ime? .i. comaircim cadiatna neṫe smaċtaigter ac denam na hime is in aiṫechus cumaiḋe. Smachta ime, .i. is e ni smaċtaigter acu ac denum na hime. Fidbad fri felmad, .i. fris in fal maiṫ, fris in nochtaile. Feis ocus airlimanda co taraċtain iar maidin, ocus ligi i ló ocus ruiriu aiḋċi, fiaċ feisi indtib uili, airlim lai ocus ruiriu lai, ocus tairrsce aiḋċi, ocus airlim aiḋċi, leṫ fiach feisi indtib uili. Dairt cacha treisi nadimcoir rainde ro seola fair, .i. dairt caċa treisi ro meṫas air, munub i in ime is eim coir dó do rinne um a roinn. Ceithre ime do cuirin, .i. ceiṫre hime dirsnaigther no ṫarrṫusṫur. Clais, cora, .i. clais no curu is in noċtmachaire. Duirime, .i. is in ċaill, .i. noċtaile, no is in leṫ maċaire.

Mad sed a deir an fer amuiġ, is cuaille céṫcintach, ocus iseḋ a deir an fer tall ní derna cin itir, is nech dia mbi loġ

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[1] '*Feis'-trespass*, i.e. the lying down of a beast in a field after being filled to satiety. This was a definite trespass. All this is apparently misplaced. For definitions of trespasses, vide pp. 124, 126.

[2] '*Ruiriu'-trespass*, i.e. passing over fields. See p. 124, *et seq.*, *infra.*

[3] *The man outside*, i.e. the suer or plaintiff. Dr. O'Donovan remarks here, "It is very difficult to express these ideas neatly in English. The following may convey to the English reader a fair idea of the meaning:—

"If the suer says, 'This stake has injured my beast *once*; it is unlawfully con-

JUDGMENTS OF CO-TENANCY.

Question—What are the requisites commanded by law[a] of fences and co-tenancy?—The requisites for the fences are a spade for *making* a trench, a bar for a stone wall, a hatchet for a strong fence, a billhook for a 'felmadh'-fence. A 'dairt'-heifer *is the fine* for every three days that he (*the co-tenant*) has neglected to make the proper portion which had fallen to him. There are four *kinds of* fences which might be required—a trench, a stone wall, a strong fence, a 'felmadh'-fence; or else, *according to others*, it (*the fine*) is a 'dairt'-heifer for every three days during which he (*the joint tenant*), has not made the proper portion of every fence.

[a] Ir. '*Smacht*'-*fines.*

Question—What are the requisites commanded by law of fences? i.e. I ask what are the things which are commanded for making the hedge in the common usage. **The requisites commanded for the fences,** i.e. it is the thing which is peremptorily ordered for making the fence. **A billhook for a 'felmadh'-fence,** i.e. for *making* the good fence ('fal maith'), *i.e.* for the naked fence. ('Feis'-trespass' and leaping over fences, so that they are caught in the morning and lying in the day, 'ruiriu'-trespass' by night, and the fine for 'feis'-trespass *is paid* for them all; *as to* 'airlim'-trespass by day and 'ruiriu'-trespass by day and 'tairsce'-trespass by night and 'airlim'-trespass by night, half the fine for 'feis'-trespass *is due* for them all.) **A 'dairt'-heifer for every three days during which he has neglected to make the proper portion, &c.,** i.e. a 'dairt'-heifer for every three days that he fails, if it be not the fence which is truly right for him he has made upon his division. **Four fences which might be required,** i.e. four *kinds of* fences are prescribed or required. **A trench, a stone wall,** i.e. a trench or wall on the bare plain. **A strong fence** i.e. in the wood, i.e. a naked fence, or in the half-*cleared* plain.

If what the man outside[a] says is, it is a stake of first fault, and what the man within says is, it is not in fault at all, the com-

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structed, and I demand satisfaction for the injury,' and if the defendant denies that his stake is unlawfully formed or fixed, or that it could have done any injury unless unlawfully meddled with, then any person who has sufficient honour-price to qualify him may settle the dispute, and decide the satisfaction to be made for the first injury done by the unlawful stake, or declare that the stake is lawful, and that no injury has occurred by means of it.

"If the suer says, 'The stake is unlawfully made and fixed, and has now injured my beast for the second time, or the third time,' and the defendant replies,

éinech an aithgin ro biaḋ uaḋa ina cét cinaid; cona derna cin itir, islan do.

Mad seḋ a deir an fer amuiġ, is cuaille decintaċ no trecintach he, ocus a deir in fer tall is cuaille cétcintaċ, is leith fir no lan fir do scur leṫ dire no lan dire de; ocus aithgin uaḋ ina cét cinaiḋ, ocus noċa gaband greim ime dib tar eis duirime, uair línad duillebur in clais, ocus brisid crand an coraḋ.

Cínta do niad na ceṫra ín céin beṫar ca faircsin, leṫ a mbia ina nairlim iseḋ bias ina tairsci, is é airet teit in rith co ruigi trí dairti, amail ata smaċtaib.

Araile, is dairt cacha treisi nadimcoir rainde fri cach nime, .i. gne eile, .i. is dairt ar cach treisi, munab i in roind is eim ccir do do rigne dimiḋ.

Cid fada co ro gabuiḋ duine do laim tindsatain a coda do denam don coimaiċes, nocha nfuil smaċt fair muna derna fogail, ocus da nderna, ica eiric a fogla. O gebus imurro, an duine do laim tinnsatain a coda don comaiċes do denam, atá smaċt fair, .i. dairt caċa treisi, muna ṫainic; no ce ṫainig, muna derna íme; no ce do rindi, muna be a roinn bodein ro imistar; no cid hi a rand bodein ro imestar, munab í ín íme is coir ro imestar; no cid hi in íme is coir do rínde íme, ma ro cuirestair sen aili ocus sen airbeḋ co tabairt taebaḋ friu. Ocus ín smaċt sin díc do co cend mís, ocus can ní dic o sin amach co cend mis aili. Ocus geall da sgreball ó caċ comaiḋṫech ar delgain tiġi a ceili fo cosaib a lepṫa re comallaḋ dliġeḋ an comaiċċesa; ocus cín co comaille, noċo ne an geall sin tuitis and, aċt an smaċt a dubramur romaind, no meich,

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'No, this is the first instance that it has caused any injury,' the neighbours will then decide by compurgation, which has the truth on his side. If they decide in favour of the defendant, he shall make compensation for the first injury which is technically called the first crime of the stake.

"'Fines do not lie for injuries done by any of the other fences from the firm or close wooden fence up, 'because,' says the commentator, 'the foliage fills the trench, and the trees break the stone wall.'"

JUDGMENTS OF CO-TENANCY.

pensation that is obtained from him for its first fault is for one that has honor-price *to decide*;[1] if no fault at all has been committed, he is free *from blame*.

If what the man outside says is, "it is a stake of two faults or three faults," and the man within says, "it is a stake of first fault," it is half proof or full proof that removes half 'dire'-fine or full 'dire'-fine from him; and compensation *is obtained* from him for its first fault, and none of these fences, from the strong fence out, takes hold (*claims damages*), for foliage fills the trench, and trees break the stone wall.

As to the trespasses which the cattle commit while they are seen, half of that *fine* which lies for their 'airlim'-trespass shall be for their 'tairsci'-trespass, and the extent of its increase is to three 'dairt'-heifers, as it is in *other* 'smacht'-fines.

Or else, it is a 'dairt'-heifer for every three days during which he has not made the proper portion of every fence, i.e. another version, i.e. it is a 'dairt'-heifer for every three days, unless it be the division that is right for him, he has made of the fence.

However long a person may have delayed taking in hand to commence the performing of his share of the co-tenancy *duties*, there is no 'smacht'-fine upon him unless trespass has been committed, but if it has been committed, he shall pay the 'eric'-fine of the trespass. But, from the time that the man has taken in hand to begin to do his share of the co-tenancy *duties*, he is liable to 'smacht'-fine, i.e. a 'dairt'-heifer for every three days *of delay*, unless he has come; or, though he has come, if he has not made a fence; or though he has made it, unless it be his own portion he has fenced; or though it be his own share he has fenced, unless he has made the proper *kind of* fence; or though it be the proper fence he has made upon it, if he has put up old stakes or old poles, trusting to them *for a fence*. And he shall pay[a] this 'smacht'-fine to the end of a month, but shall pay nothing afterwards till the expiration of another month. And each co-tenant[2] shall place a pledge of *the value of* two 'screpalls' on one of the rack-pins of each other's houses at the feet of the bed *as security* for the fulfilment of the *duties of* co-tenancy; and though he should not fulfil them, this is not the pledge that shall be forfeited for it, but the 'smacht'-fine which we have mentioned before, or sacks, or fines for man-

[a] Ir. *Pays.*

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[1] *To decide.*—There is some defect in the MS. here.

[2] *Co-tenant*, 'comaıṫech' means also co-tiller, or co-grazier, or co-occupant.

JUDGMENTS OF CO-TENANCY.

no fiach duinecaithe fo aicned na fogla, ma ro fas fogail ann. Ocus is iad airm bis acu ac denam a cota don cómaiċés no an ime, rama fri clais, soc fri coraiḋ, biail fri duirime, fidba fri selma. Ocus arnaċ caich dib a laim a ceili is in aiḋċe, co ro cumniġi leis tiaċtain ar maidin do denam a cota don comaichċes; ocus in ti na tiucfa islan a arnaċ do caithem, ocus dia caiṫter arnaċ neich, ata fiaċ foimrime uaḋ. Ocus is e coir denma na clasaċ trí troiġṫi ina leṫet iar nuaċtar, ocus da troiġ ar meḋon, ocus troiġ iar níċtar, ocus tri troiġṫi ina tardbe, ocus trí troiġṫi a leṫet an muir curtar aisti iar níċtar, ocus da troig ar meḋon, ocus troig iar nuaċtar, ocus tri troiġṫi in airdi in muir, conad sé troigṫe in airdi na clasach sain ocus in airde in muir as a cind.

Is cora imurro, tri troiṫe inu leṫat iar níċtar, ocus da troig ar meoḋan, ocus troiġ iar nuaċtar, ocus sé troiġṫi ina hairdi.

In dairime imurro, is amluḋ dleṫar a denuṁ side; barr in croind ar bun in croind eile, ocus cona tisa in tarc bec triṫi ar ḋluiṫi, na in dam tarais ar airdi.

Inoċtaili is amla dleṫar iside; troiġ co ndil nordun itir gaċ da cuaille, ocus se troiġṫi ina hairde, no da dorn déc, ma do dornuib toimistar; is tri bunchuir fair, bunchur fair iar níċtar, ocus areile ar meḋon, ocus araile iar nuaċtar, ocus aḋ itir gach da bunchur; ocus dornn fot ín chuaille o sean amuin, ocus cir droigen fair iar nuaċtar; ocus trí beíminda a ceand gacha cuaille coniar na súḋa ar tús amail conicса.

Inaḋa i ndleṫar na imed sin .i. clais no coraḋ is in machaire, ocus noċtaile is in leṫmachaire, ocus dairime is in caill. Ocus cutruma i nairdi uile.

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[1] *His victuals.*—The word 'arnaċ,' here translated, 'victuals,' occurs under the forms 'earanach,' 'eranach,' and 'ernaċ, in a paragraph on co-tenancy, in the "Finnsruth Fithil," (O'D. 1556), where it is added, that if a man's 'ernac' be used "he is not entitled to compensation, nor to a fine for over use." The term may mean the metal implements each co-tenant was obliged to have for the work of fencing. As a term for the ploughshare and coulter together, it is still a living word in the south of Ireland.

JUDG-MENTS OF CO-TEN-ANCY.

trespass, according to the nature of the trespass, if trespass has taken place therefrom. And the implements which they shall have in making their shares of the co-tenancy *work*, or of the fence, are a spade for a trench, a bar for a stone wall, a hatchet for a strong fence, *and* a billhook for a 'felma'-hedge. And each of them shall give his victuals[1] into the hand of the other at night, that he may remember to come in the morning to do his share of the co-tenancy *work*; and the victuals of the person that will not come may be safely used, and if the victuals of any of them be used, he shall pay fine for over-use. And the true making of the trench is three feet in its breadth at the top, and two feet in the middle, and one foot at the bottom, and three feet in its depth, and three feet the thickness of the mound which is placed over it, at the bottom, and two feet in the middle, and one foot at the top, and three feet the height of the mound, so that the depth of that trench and the height of the wall over it make[a] six feet.

[a] Ir. *Are.*

Now *as to* the stone fence, *there are* three feet in its thickness at the bottom, and two feet in the middle, and a foot at the top, and six feet in its height.

But *as to* the close-fence, it is thus it should be made: the top of the one tree *shall be* on the trunk of the other tree, and so as that the smallest suckling pig[b] could not pass through it for its closeness, nor the ox *pass* over it for its height.

[b] Ir. *The little pig.*

The naked fence should be thus *made: the length of* a foot to the articulation (*or separation*) of the big toe is to be between every two stakes, and six feet in its height, or twelve hands, if it be measured by hands; and three bands of interwoven twigs[2] upon it, a band on it at the bottom, another in the middle, and another at the top, and a *certain* space between every two bands; and a hand is the length of the pole (*the interweaving*) from that out,[3] and a blackthorn crest upon it at the top; and every stake should be flattened at top by three blows struck on its head, after being first thrust *by the hand on the ground* as *well as* you can.

The places where these fences should be *are thus*, i.e. a trench or a stone wall in the plain, and the naked fence in the half-plain, and the close fence in the wood. And the height of them all is equal.

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[2] *Bands of interwoven twigs.*—'bunchoꞃ,' literally, 'butt-setting,' means a band of oziers interwoven between the standards or stakes.

[3] For 'amuin' here which seems to make no sense, Dr. O'Donovan conjectured 'anunn,' and translated accordingly. Professor O'Curry translated "o ꞅean amuin," "above the wickerwork." The MS. Rawlinson, 487, fol. 64 a, col. 2, has "amuiꞃ."

JUDGMENTS OF CO-TENANCY.

Smachta tairgilli cach raiṫi itir samrad ocus etursgarad ocus caomtaċt; acht ni cuma conimtiagait ocus etarsgarat, randtar dono in bliadain i nde fri smachta, ar ni cosmail smaċta cacha raithe, annsom a smachta gaimfuaċta ocus eirrach griṫ, ar issuithe beo bethu tortha. Treidib miach miter cach nethemain, miach i nathlumpaire, leṫmiach fri monai ar airlim; bera de dartaig ar feis, ar is feis cach lige caċ tarraiḋe, airlim aċt na deilset naċ tartaiḋe, aċt tartaide and iar naiḋe.

Smaċta tairgilli cach raiti, .i. in ni smaċtaigter tar cenn na ngell toiriṫneċ cach raite. Itir samraḋ, .i. in eric. Etursgarad .i. ini etursgarus ris in geimre don errach. Caomtaċt, .i. ini bis ina choimidecht de. Ni cuma conimtiagait ocus etarsgarat, .i. acht ni cutruma ini bis a coimideċt in geimrid don errach ocus ini etursgarus ris de. Randtar dono in bliadain, .i. urranntar dono in bliadain ar dó re hic smaċta. Ar ni cosmail smaċta cacha raithe, .i. uair noċa cosmuil ini smactaigter and in cach raite. Annsom a smachta gaimfuaċta, .i. is do na netib is insa no is annsa ann ini smactaigter a fuact in geimre. Eirrach griṫ, .i in uair bis criṫ ar na hinnilib is in errach. Ar issuithe beo bethu .i. ar is uaisle ini do beir beata do na buaib isin geimre na

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[1] *Every quarter.*—Upon this Dr. O'Donovan observes:—"A literal translation of this passage could not be understood by an English reader." The following is submitted as the closest that could be considered intelligible:—

"Relieving pledges are ordained for every quarter of the year, both in summer and in the parts separated from or added to it, but these parts are not equal, for the year is divided in two regulations for the 'smacht'-regulations of every quarter are not alike. The 'smacht'-regulations of the winter, and the cold *portion* of spring are more difficult, for *living* food is more noble than fruit.

"Three sacks are estimated *as the fine* for trespassing on all rich land, half a sack for pastured land, and half a sack for a mountain.

"Two 'dairt'-heifers are adjudged for lying down *satiated after grazing*, for every

JUDGMENTS OF CO-TENANCY.

Additional pledges for 'smacht'-fines *are payable* every quarter[1] of a year, both in summer and *in* the parts *of autumn and spring,* subtracted from or added[a] *to winter;* but the parts added and subtracted are not equal, *for* the year is divided into two parts[2] for *regulating* 'smacht'-fines, for the 'smacht'-fines of each quarter are not alike, *because* it is difficult *to regulate* the 'smacht'-fines of the winter season, and of the spring cold,[3] for saved provisions are more precious than growing grass. Three sacks are estimated *for damage committed by trespass* in cornland, a sack in pastured land, half a sack in a mountain field; two 'dairt'-heifers for 'feis'-trespass, for every lying down is *called* 'feis'-trespass when detected; every detection is 'airlim'-trespass if they (*the cattle*) have not lain down, but detection therein after a night.

[a] Ir. *Separation and accompaniment.*

Additional pledges for 'smacht'-fines every quarter, i.e. the thing which is ordained for the relieving pledges every quarter of a year. In summer, i.e. the 'eric'-fine. Subtracted, i.e. the part of the spring which is detached from winter. Added to, i.e. that part of it which accompanies it. But the parts added and separated are not equal, i.e but the part of spring which is added to the winter, and the part which is subtracted from it are not equal. For the year is divided, i.e. the year is divided into two parts for the *regulation of* payment of 'smacht'-fines. For the 'smacht'-fines of every quarter are not alike, i.e. for the thing ordained by law in each quarter is not alike. It is difficult *to regulate* the 'smacht'-fines of the winter season, i.e. the thing commanded to be given as fines during the cold of the winter is among the difficult things *of law.* Spring-cold,[b] i.e. when the cattle are shivering in the spring. For saved provisions are more precious, i.e. for more noble is the thing which gives food to the cows

[b] Ir. *Shivering.*

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lying down when detected is a 'feis'-trespass. It is an 'airlim'-trespass if they did not lie down. No fine for lying-down lies for any detection, except their being caught in the morning."

[2] *The year is divided into two parts.*—According to C. 23, the year was divided into two unequal parts. The 'Samfucht,' or warm season, comprises five months, viz., the last month of spring, the three months of summer, and the first month of autumn; and the 'Gamfucht' comprised seven months, viz., the two last months of autumn, the three months of winter, and the two first months of spring.

[3] *Spring cold.*—That is, during February and March, which were considered a part of the winter. See p. 89, *infra.*

JUDGMENTS OF CO-TENANCY.

iní do beir toru dóib isin tsamrad. Treidib miach miter cach nethemain, .i. treide do miachaib is he ní meisemnaigter i feis ocus ín airlim diguin feoir etam. Miach i nathlumpaire, .i. féis atlumpuire feoir etamuín tsamrata. Leṫ miach fri monai, .i. í nairlim atluimpuire mona geimreta re diġuin mona samrata. Bera de dartaiġ ar feis, .i. breiṫemnaiġter de dartaiġ da screpall ar ceiṫre miaċaib, .i. i féis diġuin feoir eṫamuin geimreta. Ar is feis cach lige caċ tarraiḋe, .i. eiric feisi forru o ṫarraigter and iatt ina liġe. Airlim aċt na deilset, .i. eric airlime orra aċt na ro laigit ann. Naċ tartaiḋe aċt tartaide and iar naiḋe, .i. noċa tarraċtain eile a deirim eric feisi orru ina nairlim, aċt a tarraċtain and iar maidín.

Ceithri ernaili comarda in comaiċesa a níctar lanfiaċ feisi, .i. feis lae, ocus feis aiḋċe, ruire na haiḋċe, ocus airlim na haiḋċe, cona torraċtain an airlim and ar maidin. Ceṫre hernaile comarda an comaiċesa a nictar leṫ fiaċ feisi, .i. ruire an laei, ocus airlim an laei, tairsce na haiḋċi ocus airlim na haiḋċe, cona torraċtain an airlim ann iar maidín. Leṫ fiach airlimi ín laei a tairsci an laei, no leṫ fiaċ tairsci na haiḋċi a tairsce an lae, ocus is í sin an aen hernaili ceṫhraman.

Ceṫre meiċ a feis diġona feoir eṫamain geimreta tar lan íme, da miaċ ina nairlim, ocus miaċ ína tairsci. Mas i aṫlompaire feoir eṫamain geimreta, no díguin mona geimreta, no caille geimreta, no aṫbuailiḋ geimreda, no i ndigoin feoir eṫamain tsamraiḋ, da miaċ ína feis, ocus miach ína nairlim, ocus leṫ meiċ ína tairsci. Más i aṫlumpoire mona geimreta, no caille geimreta, no athbuailiḋ geimreta, no aṫlompuire feoir eṫamain tsamrata, no a ndiguin mona samrata no caille samrata, miaċ ína feis, leṫ meich ína sairlim, ceaṫraime meich ína tairsci. Más i aṫlompuire mona samrata no caille samrata, no aṫbuailiḋ samrata, leṫ meich ina feis, ocus ceṫhruime meich ina forlím, ocus

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[1] *Enclosed field.*—On the term "diguin," Dr. O'Donovan, quoting an old gloss, says, it meant grass which was not to be violated, i.e. a meadow.

JUDGMENTS OF CO-TENANCY.

in winter than the thing which gives produce to them in the summer. Three sacks are estimated *for trespass* in cornland, i.e. three sacks is the fine estimated for 'feis'-trespass and 'airlim'-trespass in an inclosed meadow. A sack in a pastured field, i.e. for lying in a pastured field of grass land in the summer. Half a sack in a mountain field, i.e. for leaping into a pastured field of winter mountain land with an inclosed field of summer mountain land. Two 'dairt'-heifers shall be given for 'feis'-trespass, i.e. two 'dairt'-heifers *of the value* of two 'screpalls' with four sacks are adjudged, i.e. for 'feis'-trespass in *a properly fenced* winter grass land. Every lying-down is *called* 'feis'-trespass, &c., i.e. 'eric'-fine for 'feis'-trespass is *charged* on them when they are caught there lying down. 'Airlim'-trespass if they have not lain down, i.e. 'eric'-fine for 'airlim'-trespass *is charged* on them if they have not lain down. Every detection, but detection therein after the night, i.e. it is not for any other detection I say that 'eric'-fine for 'feis'-trespass is *charged* on them for their 'airlim'-trespass, but for their being caught there in the morning.

There are four equal cases in[a] the co-tenancy in which full fine for lying down trespass is paid, i.e. lying down by day, and lying down by night, 'ruire'-trespass by night, and 'airlim'-trespass by night, and their being detected in their 'airlim'-trespass there in the morning. There are four equal cases in the co-tenancy for which half fine for 'feis'-trespass is paid, i.e. 'ruire'-trespass by day, and 'airlim'-trespass by day, 'tairsce'-trespass by night, and 'airlim'-trespass by night, if they are detected in their 'airlim'-trespass there in the morning. Half the fine for the 'airlim'-trespass by day *is due* in the *case of* 'tairsce'-trespass by day, or half the fine for 'tairsce'-trespass by night in the *case of* 'tairsce'-trespass by day, and this is the only case of a fourth (*i.e. of fourth fine*).

Four sacks *are due* for 'feis'-trespass in a winter grass field over a full fence, two sacks for 'airlim'-trespass, and a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of winter grass land, or upon an inclosed field of winter mountain land, or winter wood, or an old winter milking place, or into an inclosed field of summer grass land, two sacks *are due* for 'feis'-trespass, and a sack for 'airlim'-trespass, and half a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of winter mountain, or winter wood, or an old winter milking place, or a pastured field of summer grass land, or into an inclosed field[1] of summer mountain or summer wood, a sack *is due* for 'feis'-trespass, half a sack for 'airlim'-trespass, *and* a quarter of a sack for 'tairsce'-trespass. If *it be trespass* upon a pastured field of summer mountain or summer wood, or summer old milking-place, half a sack is due for 'feis'-trespass, and a quarter of a sack for 'airlim'-trespass, and the

[a] Ir. Of.

JUDGMENTS OF CO-TENANCY.

oċtmad meich ína tairsce. Oċtmaḋ an oċtmaiḋ ar cach naen anmand nangbuiḋ, uair angbaiḋ caċ mil a comaiċes. Tairsci aen anmund an aṫlumpaire mona samrata, cid bé da roiseḋ, ín seiseḋ rand leṫe aen meich. Is e airet ata in riṫ sin co ruici trí seċt nanmanda do aen seilb a ndul anund tar bernadaib saíne; ocus mas tar aen bernai do cuadar, smaċt ar ín cét anmuin, ocus aithgin feoir no arbair ar caċ nanmann o ṫa sin amach.

Da bai in fiaċ duinecaiṫi cinnti tar lan íme, ocus bo ocus saṁaisc tar leṫ íme; bo mas cin íme itir; a ndígoín feoir geimriḋ ata sin. Mas i aṫlompuire feoir eṫamain geimreḋ, no a ndigoín mona geimriḋ no caille geimriḋ, no aṫbuailiḋ geimrid, no a ndígoin feoir eṫamain tsamrata, bo and tar lan íme, ocus trí ceṫramna tar leṫ ime; samaisc mas cín íme itir.

Mas i athlompuire mona no caille, no aṫbuailiḋ geimreta, no aṫlumpuire feoir eṫamain samrata, no a ndiġoin mona no cailli, no aṫbuaili samrata, samuisc and tar lan íme, ocus a teora cethraime tar leṫ ime, colpaċ sẹ screpall mas cin íme itir.

Masa aṫlompaire mona no caille, no aṫbuaili samrata, colpaċ .iii. screpall ann tar lan ime, ocus a teora ceṫramna tar leṫ íme, dairt cetri screpall mas gin íme itir.

Bo ín fiach duinecaiṫi condtabartach dar l íme, ocus colpach fair no fuire tar leṫ íme. Tar lan ime at t na meich, ocus a leṫ tar leṫ íme, ocus noċon fuil ní mas cin ime itir. Tar lan íme ata in fiach duine caiṫe ocus a teora ceṫraime tar leṫ íme, ocus leṫ, mas gín ime itir.

Canas i ngabur teora ceṫraime in feich duinecaiṫi tar leṫ

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[1] *Restitution.*—That is, the owner must make good the grass or corn destroyed by the animal.

JUDGMENTS OF CO-TENANCY.

eighth of a sack for 'tairsce'-trespass. The eighth of the eighth *is the fine* upon every trespassing animal, for every beast is a trespasser in a co-tenancy. *For* the 'tairsce'-trespass of one animal upon a pastured field of summer mountain pasture, whatever *animal* commits it, a sixth part of the half of one sack *is due*. This extends[a] to three times seven animals of one herd in their going over different gaps; and if it be over one gap they went, there is 'smacht'-fine upon the first animal, and compensation for grass or corn upon every animal from that out.

[a] Ir. *The length to which this run is, till it reaches, &c.*

Two cows *is* the fine for definite man-trespass over a full fence, and a cow and a 'samhaisc'-heifer *if* across a half fence; a cow *is the fine* if there be no fence at all. This is *for trespass* in a preserved field of winter-grass. If it be *trespass* upon a pastured field of winter-grass land, or upon a preserved field of winter mountain or winter wood, or old winter milking-place, or upon a preserved field of summer grass-land, a cow *is the fine* for it *if* across a full fence, and three-fourths *of the value of a cow* across a half fence; a 'samhaisc'-heifer, if there be no fence whatever.

If it be a pastured field of winter mountain or wood, or an old milking-place, or a pastured field of summer grass-land, or a preserved field of summer mountain or wood, or an old milking-place, a 'samhaisc'-heifer *is the fine* for *trespass on* it over a full fence, and three quarters *of a cow* over a half fence, a 'colpach'-heifer worth six 'screpalls,' if there be no fence at all.

If it (*the trespass*) be *upon* a pastured field of summer mountain or wood, or an old milking-place, a 'colpach'-heifer of *the value of* six 'screpalls' *is the fine* for it *if* across a full fence, and three quarters *of a 'colpach'-heifer* across a half fence, a 'dairt'-heifer *of the value* of four 'screpalls,' if there be no fence at all.

A cow is the fine for doubtful man-trespass[3] *if* across a full fence, and a 'colpach'-heifer *is the fine* upon him or her (*the trespassing beast*) across a half fence. *For trespass committed* across a full fence 'the sacks'[2] are *paid*, and the half thereof (*i.e. of the sack*), across a half-fence, and there is nothing *to be paid as fine* if there be no fence at all.

Whence is it (*i.e. the rule or precedent,*) derived that it is three-quarters of the fine for man-trespass *that is paid for the trespass*

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[2] *The sacks.* The term is here technically used. It means four sacks of oats and barley. See *infra*, p. 119.

[3] *Man-trespass.*—That is, trespass committed by cattle with the connivance of, or caused by the owner, or some person in charge of them.

JUDGMENTS OF CO-TENANCY.

ime, ocus co na fuil acṫ leṫ na miach? Is as gabur, leṫ ín feich duineċaiṫi cin ime itir, ocus in leṫ eile de ar sgaṫ lan íme; mara leṫ ime fuil and, cethraiṁe ar scath leṫ ime; tabuir in toċtmaḋ sin a fuilleḋ in leṫe fuil cin ime, co na teora ceṫraime ín feich duinecaiṫi tar leṫ íme.

Noċon faġabur nác ní do na miaċaib cin íme, coir no deirsiḋi in tan ata leṫ íme and, cémaḋ leṫ na fiach do beṫ ar a sgáth.

Nochan fuil deṫbir ruirid na airlime na tairrsgi, na médaiġṫi na laiġdiġṫi dinnili a leith re duinecaithi; ocus ata deṫbir digoin ocus aṫlompaire, athaim ocus anaṫaim, ocus ata deṫbir íme ocus can íme. Ata a ndeṫbeir uili re miaċaib.

Ciḋ fo dera in tan is meich dlegar isin fogail co na fuil ní cin ime itir; ocus in tan is fiaċ duineċaiṫi imurro, co fuil a leṫ siḋe cin ime itir? Is é in fáṫ fodera, in coimét do ordaiġ dligi ar na hindili áta ac fir na nindili orro, ocus indligteċ dfir an feraind gan ime aigi; ocus coir cin co beṫ ní do na miaċaib do in tan na biaḋ ime aigi. Noċon fuil a coimet dligteċ imurro, ac fir na indili orra in tan ata fiach duinecaiṫi uaḋ, ocus coir ce no beṫ a leṫ uaḋ cin ime itir, cid indligteċ dfir an feraind gan ime do beṫ aige, uair conranndat baiṫ baeġal eturru.

Deṫbir diġoin ocus aṫlompuire, ocus aithim ocus anaiṫhini, ocus íme ocus can ime a leṫ re fiaċ duinecaiṫi; ocus nocon fuil deṫbir feisi na airlime, na ruiriḋ, na tairsci a leṫ re fiach duinecaiṫi; ocus ata an deṫbir uili a leṫ re miachaib.

Is ann atait na meich orro in inbaiḋ ro fagaib duine iat i sleib no a ndiraind, ocus ro fagaib buachaill codnaċ re cois;

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[1] *One-eighth.*—This is wrong, it should be 'one-fourth.'

JUDGMENTS OF CO-TENANCY.

committed by going across a half hedge, and that it is only half 'the sacks?' It is derived from this, *that it is* half the fine for man-trespass *is due* when there is no fence at all, and the other half of it for *trespass over* full fence; if it be a half fence that is there, there is a fourth *of 'the sacks'* for half fence; carry that one-eighth,[1] and add it to[a] the half which is for *the case of* no fence at all, and it makes three-fourths of the fine for man-trespass across a half fence.

[a] Ir. *In addition to.*

No portion of 'the sacks' is obtained without the fence, it is proper for this reason, that when there is a half fence, it should be half the fines that are *due* for it.

There is no difference of 'ruiridh'-trespass, or 'airlim'-trespass, or 'tairsgi'-trespass, or increase or decrease of cattle with respect to man-trespass; but there is a difference of meadow and pastured land, of profitable land and unprofitable, and there is a difference of fence and non-fence. All these differences are *observed* with respect to 'the sacks.'

What is the reason, when it is 'sacks' that are due for the trespass, that there is nothing *due* where there is no fence at all; *but* when there is fine for man-trespass, that the half thereof is *due* where there is no fence whatever? The reason is, the herding which the law has ordered for the cattle is *provided* by the owner of the cattle for them, and it is unlawful for the owner of the land not to have a fence; and it is right that he should have no portion of 'the sacks' when he has not a fence. The owner of the cattle has not *provided* the lawful herding for them when he pays fines for man-trespass, and it is *in such case* right that he should pay the one-half when there is no fence at all, even though it is unlawful for the owner of the land not to have a fence, for "fools divide the neglect[2] between them."

There is a difference between preserved grass-land and pastured land, and between profitable and unprofitable land, and between fence and non-fence,[3] with respect to fines for man-trespass; and there is no difference between 'feis'-trespass and 'airlim'-trespass, or 'ruiridh'-trespass, or 'tairsce'-trespass, with respect to fines for man-trespasses; and there is a difference between them all with respect to sacks.

Where they are fined 'the sacks' is where a person has left them (*the cattle*) in a mountain or a wood, and left a sensible adult

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[2] *Vid.* vol. 3, p. 305. "Every Judge is punishable for his neglect."

[3] *Non-fence.*—The MS. here has 'cα' with a stroke over the 'α,' such as usually is employed to mark 'ċ.' The meaning requires that the word should be read as "cαn."

JUDGMENTS OF CO-TENANCY.

no in coímét a deir dliġi orro: sraṫar ar na mucaib; coċoll im na cerci; broga im na gabraib; urċoll fo na gamnaib; aeḋaire ag na cairib; buachaill ag na buaib.

Is and ata in fiaċ duinecaiṫi cindteċ, in inbaiḋ ro fagaib iat a farraḋ an ġuirt feoir no arbair, ocus cindti leis cona rachdais inn. Is ann ata in fiaċ duine caiti conntabartach, in uair is conntabairt leis in rachdais no na rachdais ind.

Ma táit tall iat aḋ ris a tairsi a tabairt fo trí amach, is lan fiach duinecaiṫi; ma tait aḋ risi toirsiḋ a tabairt fa dó, is da trian an feiċ duinecaiṫi; ma robatar tall aḋ risi toirse a tabairt aenfeċt, is trian in feich duinecaiṫi.

A fail ata dianaighliġ neimeḋ, ní heḋ an cena, uingi dairget a taiṫmech and, ocus ga ar trí seċt nanmanda fo cethair do aen treilb atá sin co na ndul anund saine feċt tar saíne bernaḋ; no ar trí seċt nanmannaib fo ceṫair do saíne selba co na ndul anunn aen feċt tar saíne berna; ocus damaḋ tar aen bernain, ní biaḋ aċt smaċt ar in cét mil, ocus aithgin feoir no arbair uatha uili.

A fail ata dun rig, les martraḋ ní aiḋliġ, lintar dairget caċ derc don aiṫbi, dó úir caċ derc ro taiṫmiḋi ann .i. a sonda ocus a salad, ocus uir mín a comaicínta tar a heisi; ocus is e airet ata in riṫ, co ruici seċt nanmanda do aen treilb.

Tairgille smaċta tairced cuicṫi iar fogail uadaib

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[1] *When it is a king's 'dun'-fort, &c.*—The text is obscure here, and seems defective in the original. The paragraph with some variation is given in O'D., 1674, as a commentary on the clause, "Rooting the earth in distinguished places."

[2] *A 'lis martradh'-fort.*—Probably a churchyard; 'martyres' appear to have meant 'relics'. Vid. O'D., 1674.

as herdsman with them, or the care-taking which the law requires[a] over them; a yoke for the pigs; a hood for the hens; ties of leather for the goats; a spancel for the yearling calves; a shepherd with the sheep; a herdsman with the cows.

The case where the fine for definite man-trespass is *due* is when he (*the trespasser*) left them (*the cattle*) near the field of grass or corn, and he is certain that they would go into it. The fine for doubtful man-trespass is *due* when he is doubtful whether they would go or would not go into it.

If they are within *the field* as long as that they might be driven[b] out thrice, it (*the penalty*) is full fine for man-trespass; if they are within so long as that they might be driven out twice, it is two-thirds of the fine for man-trespass; if they were *within the field* so long as that they might be driven out once, it is one-third of the fine for man-trespass.

When it is *a case of* the violation of a 'nemed'-person's *church or sanctuary*, it (*the fine*) is not the same, *but* an ounce of silver *is the fine* for their rooting there, and this is charged upon 3 × 7 × 4 (84) animals of the one herd (*cattle belonging to one man*) after they have gone over *the fence* different times by different gaps; or upon three times seven animals *multiplied* by four (84) of different herds (*possessions*) when they have gone over once by different gaps; and if it be by the one gap, the 'smacht'-fine shall be only upon the first beast, and compensation for grass or corn from *the owners of* them all.

When it is a king's 'dun'-fort,[1] *or* a 'lis martradh'-fort[2] that is trespassed upon, let every hole made in the place be filled with 'eric'-sod,[3] *so as to be tantamount* with the clay of each hole that was made therein, viz., let it be pressed and stamped with the heel, and *let* fine clay of the same nature *be placed* there afterwards, and the extent to which it runs, is as far as seven animals of the same possession (*herd*).

The additional 'smacht'-fines for instigation are to be paid in five days after damage, for trespass without

[a] Ir. *Says.*

[b] Ir. *Brought.*

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[3] '*Eric'-sod.*—The Irish word which Dr. O'Donovan has thus translated is 'airget,' the usual word for 'silver,' even in the spoken language of the present day. In O'D., 1674, the reading is 'argat,' which appears to have the same meaning, both terms being Celtic forms of the Latin 'argentum'.

JUDGMENTS OF CO-TENANCY.

a caithe cen naidm naesaib. Gaimorgain mbruigrechta da trian a fochraice is e a smaċt.

Tairgille smaċta .i. anaḋ treisi ocus diṫim cuicṫi for in smaċt, .i. no na smaċta frisi tárrda na gella toirithnecha do toraċtain ar cúicṫi; no in ní smaċtaigter re heiric in cinaiġ risi tardaḋ na gella toirithnecha do toraċtain uaiḋ ar cúicṫi, in tan is amuil a cinaġ féin dó cin a ruib.

.i. in uair is amuil a cinaiḋ féin dó he, is anaḋ treisi for in smacht, ocus diṫím cúicṫi. In tan is amuil cinaiġ nínbleoġain immurro, is anaḋ cúicṫi for in smaċt ocus diṫím treisi for ín smaċt. Ocus is ann is amuil a cin[uiḋ] féin do cin a ruib, in tan ata dil in cinaiġ is in rob fein; ocus is ann is amuil cinaiġ ninbleogain dó, caċ uair na fuil.

Cen naidm naesaib, .i. cin naidm nascaire ris do reir nuafeasa re comall in comaiṫcesa. Gaimorgain, .i. orguin ín broga ris na coir dirgetaide isin geimre. Da trian na degcreiċe, smaċta uil ina feis ocus ina airlim, isseḋ fuil ina feis nama.

Smaċta caċa raithe, ni cuma dono smaċt samfuaċta ocus gaimfuaċta; ni cuma dono cid caċ mis disuidiu. Asberar dono secht misa dib fri samfuact, ocus a cúic fri gaimfuaċt; an mí deidinach do errach, ocus tri misi samraid, ocus tri misa an fogmuir fri samfuaċt; cúic misa immurro, fri gamfuaċt, tri misa in gaimriḋ, ocus in da mí taisecha do errach fri gaimfuaċt. It truma smaċta geimrid oldaiti smachta samraid, ar issruithe beo beatha na mbo oldas a

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[1] *Farm-Laws.*—The word "mbruigrechta" has been written over the words "da trian" in the MS. by a much later hand than that of the original scribe.

[2] '*Smacht*'-*fine.*—See p. 31 (O'D., 2171), and compare with O'D., 402. "Question—How are land trespasses calculated?—From the rents, i.e. from the full rent given for the land itself, the profitable or unprofitable grass-land which is injured is estimated. Two-thirds of the rent is the fine, i.e. two-thirds of the rent which is charged for a 'tir cumhaile' of the best land, for three-quarters is the fine for 'feis'-trespass in a meadow of winter grass land over a full fence, i.e. three 'screpalls' upon it for the three-quarters, and two 'screpalls' for 'feis'-trespass in winter, and one for 'feis'-trespass in the summer, i.e. the one-third of the three 'screpalls.' (H. 3, 17, col. 306.)

A passage similar to this very obscure one occurs in C. 25.—treating of the tres-

giving further legal security. *For* winter trespass in the farm-laws[1] two-thirds of the rent is the 'smacht'-fine[2].

The additional 'smacht'-fines, i.e. *there is* a stay of three days, and a delay in pound of five days for *the payment of* the 'smacht'-fine, i.e. or the 'smacht'-fines with which are given the additional pledges are to be brought in five days; or the thing which is commanded *by law* as '*eric*'-fine for the crime for which the additional pledges are given, is to be brought by him in five days, when the crime of his beast is as his own crime.

That is, when it is to him like his own crime, there is a *stay* of three days for *the payment of* the 'smacht'-fine, and a delay in pound of five days. When however, it is as the crime of a kinsman,[3] there is a stay of five days, and a delay in pound of five days for *the payment of* the 'smacht'-fine. And the case in which his beast's crime is to him like his own crime is, when the beast itself is value *sufficient* to pay for the damage;[a] and it is[4] as the crime of his kinsman, whenever it is not *of that value*.

[a] Ir. *When the value of the crime is in the beast itself.*

Without *giving further* legal security, .i. without the guaranty of a contract-binder, according to new knowledge for observing the *laws of* co-tenancy. **Winter trespass**, i.e. trespass upon the farm with the proper regulations in the winter. Two-thirds of the fair rent, the 'smacht'-fines which are *paid* for 'feis'-trespass and 'airlim'-trespass, is that which is *due* for 'feis'-trespass alone.

There are *different* 'smacht'-fines every quarter *of a year, but* the 'smacht'-fine in the hot season is not the same as that of the cold season; even every month of these *seasons* is not alike. Seven months of them are included[b] in the hot season, and five in the cold season; the last month of spring, and the three months of summer, and the three months of autumn, are called[c] the hot season; but the five months of the cold season are, the three months of winter, and the two first months of spring. The 'smacht'-fines of winter are heavier than the 'smacht'-fines of summer, for

[b] Ir. *Are said for.*

[c] Ir. *For.*

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passes committed by swine. It runs as follows:—"What was in the old judgments?—Every pit that was rooted *by swine* to be filled respectively with corn, others *say* with butter, for they deemed it lawful to make good the damage done to the earth by its own produce. But this was afterwards changed to compensation for the thing injured."

[3] *A kinsman.*—'Inbleoghan' means a man's son, grandson, relative, or any person for whose crimes he is responsible.

[4] *It is.*—Literally "and where it is the same as the crime of the kinsman is whenever it is not."

JUDGMENTS OF CO-TENANCY.

ngeart, ar it geinither fer i samraḋ, ni tha imurro ní a ngeimre.

Smaċta caċa raithe, .i. iní smaċtaigter in gaċ raithe. Ni cuma dono smaċt, .i. noċa cutruma iní smaċtaigter i fogail do denam a tes in tsamraiḋ ocus a fuaċt in geimriḋ. Ni cuma dono cid caċ mis disuidiu, .i. noċa cutruma tsamaigid caċ mis do na hibaḋa hisin, .i. mí teasa in tsamraiḋ ocus mí fuaċta in geimre. It truma smaċta geimrid, .i. is truma iní smaċtaigter isin foġail do niat na hinnile isin geimre oldaite na neiche smaċtaigter isin foġail do niat na hinnile isin tsamraiḋ. Ar issruithe beo beatha na mbo oldas a ngeart .i. is uaisle ini do beir beṫa dona buaib isin geimriḋ inas ini do beir laċt doib isin tsamraiġ. Ar it geinither fer i samraḋ .i. is he so in fáṫ .i. adageiniḋ fer isin tsamruid. Ni tha imurro ni a ngeimre .i. noċa neḋ a raṫa lium in fer do fas is in geimriġ.

Asberar smaċta samraiḋ; miaċ caċ airlime ar secht nanmandaib fri etham ndiguin; leṫ meich ma fri athbrondad; leṫ meich fri moin frindis; leṫmiach caċ cuilgaib o dam co dartaig fri feis. It da miach imurro, fri geamfuaċt.

Asberar smaċta samraiḋ, .i. raidter no aisneidter iní smaċtaigter is in fogail do niat na hinnile isin tsamraiḋ. Miaċ caċ airlime, .i. miach is e ní aisneidither ar seċt nanmandaib daon seilb co na ndul anunn aon feċt tar aon bernaḋ i nairlim diguin feoir eṫamuin tsamraiḋ. Leṫ meich ma fri athbrondad, .i. maḋ fri brondaḋ gu haiṫ, .i. airlim athluimpuire feóir eṫamain tsamraiḋ. Leṫ meich fri moin frindis, .i. i feis aṫlumpuire mona samrata, no caille samrata. Leṫmiach caċ culgaib o dam co dartaig, .i. ar seċt na[n]mundaib a feis diguin feoir eṫamuin géimreta, ocus seċtmaḋ leṫ meich do ċuid gaċ anmundaiġ na tug ar aird and. It da miach imurro fri geamfuaċt, .i. i féis athlumpuire feoir ethamuin geimre, no i naírlim diguin feóir eṫamuin geimreta.

Is cumal smaċt caċ míl i comaiċes, ocus i toxal nathgabala, amail isbeir isin Finnsruth Fithil; co ngeil ingen fri fiacail, ocus comdire cach naesa i foġeltaḋ, congelat da dartaid sech

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[1] *Food.*—The word 'beṫa,' means also life.

[2] *Finnsruth Fithil-law.*—A tract on the manner of passing judgments.

JUDGMENTS OF CO-TENANCY.

that which supports the cows *in winter* is more precious than their produce, for grass is produced in summer, but none at all in winter.

There are 'smacht'-fines every quarter, i.e. the thing which is commanded *to be paid* as 'smacht'-fine in every quarter of a year. The 'smacht'-fine is not the same, i.e. the thing which is ordained *to be paid* as 'smacht'-fine for trespass committed in the heat of the summer and in the cold of the winter is not equal. Even every month of these is not alike, i.e. it is not alike that each of these months is regulated, i.e. a month of summer heat and a month of winter cold. The 'smacht'-fines of winter are heavier, i.e. the thing which is commanded *to be paid* as 'smacht'-fine, for the trespass which the cattle commit in the winter is heavier than the thing ordered *to be paid* for trespass which the cattle commit in the summer. For that which supports the cows, &c., i.e. more valuable is the thing which gives food[1] to the cows in the winter than the thing which gives them milk in the summer. For grass is produced in summer, i.e. this is the reason, i.e. grass is produced in the summer. But none at all in winter, i.e. it is not that I say that grass grows in the winter.

Let the summer 'smacht'-fines be stated; a sack *is charged* for every 'airlim'-trespass upon seven animals into a profitable meadow; half a sack if into after-grass; half a sack if into a mountain; half a sack for the 'feis'-trespass of every sort of cow from an ox *down* to a 'dartaid'-heifer. There are, however, two sacks in the cold season.

Let the summer 'smacht'-fines be stated, i.e. the thing which is commanded as 'smacht'-fine for trespass which the cattle commit in the summer is to be told or related. A sack for every 'airlim'-trespass, i.e. a sack is the fine which is mentioned as *imposed* upon seven animals of one herd after going over by leaping once across one gap into a meadow of summer grass-land. Half a sack if into after-grass, i.e. if to trespass quickly, i.e. by leaping into a pastured field of summer grass-land. Half a sack if into a mountain, i.e. for 'feis'-trespass in a pastured field of summer mountain or summer wood. Half a sack, &c., from an ox to a 'dartaid'-heifer, i.e. upon seven animals for 'feis'-trespass in a meadow of winter grass-land, and the seventh of a half sack is the portion *of the fine* for each animal, which he did not tender then. There are, however, two sacks in the cold season, i.e. for 'feis'-trespass in a pastured field of winter grass-land, or for 'airlim'-trespass into a meadow of winter grass-land.

A 'cumhal' is the 'smacht'-fine for every beast in a co-tenancy, and in taking forcible distress, as is said in the 'Finnsruth Fithil'-law[2]—A nail rates with a tooth, and equal 'dire'-fine is paid for *cattle of* every age for feeding, for two 'dartaid'-heifers eat beyond (*more*

JUDGMENTS OF CO-TENANCY.

rodaṁ. I tir dibaḋ ata ín comecur sin, ocus i comaiċeas, no i comecur ata sund.

Ag fo crenar tir co cend mbliadna; tareisi ngemfuaċta, no aġ beri fiu da trian a fochreca tareisi, ocus a tir lais in fear orgtar and.

Ag fo crenar tir co cend mbliadna, .i. ag dedcennaiġis in fearann ar fochruic co cend mbliadna, .i. in tsamuisc do berar i fochruic, .i. fochruic feoir ar tir trí cumal. Tareisi ngéimfuaċta, .i. tareisi na fogla do nither a fuaċt an geiṁriḋ, a leṫ feichriḋe, .i. leṫ an feich duineċaiṫi conntabartaiġ an tsamaisc isin tar lan ime, [ocus a lech mas gan imme], .i. an aṫlompuire feoir etheamain géimreta, no a ndiguin mona geimriḋ, no caille geimre, no athbuaile geimriḋ. No aġ beri fiu da trian a fochreca tareisi, .i. aġ ber fiu da trian na focreca, .i. na samuisce fuil ar tir tri cumal, .i. ín colpaċ oċt sgrepall fuil tareisi ṫire da cumal ína focreic; no aḋ ber fiu da trian na samuisce atá isín focreic, isseḋ ata isin fogail do nither fris na ferandaib cétna i fuaċt an geimriḋ, .i. ar teora ceṫraime na samuisce andsideic hi, aċt aen screpall nama na tuga ar aird and; no dono cena, cín co fuil acht aes colpaiġe oċt sgreapall indti, is dímarcraiḋ lesaigṫi no biriḋ ata uire ní ris na fiu teora ceṫraime na samuisce hi. Ocus a tir lais in fear orgtar and, .i. a ferand lais in fer do nither and do orgain, .i. iarre na focreca, ín tan is ar focreic tucaḋ he; no a ferand ac in fir do nither and i fogail, .i. iar níc erca a fogla fris.

O'D. 403.

Tait airlimenda imadichet smachta; caċ airlim ria coin no duine; no airlim naibil no omna, no airlim neicne cipsí.

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[1] *Joint-stocking.*—That is putting an equal stock on the land.

[2] *Rent.*—'Focraic' is here used to denote the award or price, hire or compensation paid, or contracted to be given, for the use of the land for one year.

[3] *Against whom trespass is committed.*—The following seems to be the meaning of this very obscure text:—"A calf is the rent payable for land taken until the end of the year; in the case of a trespass committed from the commencement of the cold season on to the end of the year, a calf is the fine payable, or a calf which is worth two-thirds of the value of such a calf as should be paid for the rent, (which would at that time be a 'samhaisc'-heifer); and the land upon such payment becomes the property of the man against whom the trespass is committed, or of the man who pays the fine.'

JUDGMENTS OF CO-TENANCY.

than) the largest ox. In a 'dibadh'-land this joint-stocking[1] is *made*, and in a co-tenancy, or in joint-stocking it is here.

A calf *is the rent* which is paid for land *taken* till the end of the year; *in the case of trespass committed* after *the commencement of* the cold season *to the end of the year, a calf is the fine*, or a calf which is worth two-thirds of the rent afterwards; and the land *remains* with the man against whom trespass is committed in the case.

A calf, &c., which is paid for the land till the end of the year, i.e. a calf (*the price of a calf*) pays for the land *which is let* for hire (*rent*) to the end of the year, i.e. the 'samhaisc'-heifer which is given as rent,[2] i.e. as the hire for the grass of a land of (*worth*) three 'cumhals.' After the cold season, i.e. after the trespass which is committed in the cold of the winter, half the fine for this, i.e. that 'samhaisc'-heifer is half the fine for doubtful man-trespass over a full fence, and the half thereof if there be[a] no fence, i.e. into a pastured field of winter grass-land, or into a meadow of winter-mountain, or of winter wood, or a winter old milking-place. Or a calf which is worth two-thirds of the rent afterwards, i.e. a calf which is worth two-thirds of the rent, i.e. of the 'samhaisc'-heifer which is *paid* for a land of three 'cumhals,' i.e. the 'colpach'-heifer *of the value* of eight 'screpalls' which is *to be paid* for a land of two 'cumhals' for its rent; or, a calf which is worth two-thirds of the 'samhaisc'-heifer which is *paid* for the rent, it is it that is *paid* for the trespass which is committed on the same lands in the cold of the winter, i.e. *it is given* for three-quarters of *the value of* the 'samhaisc'-heifer in this case, except one 'screpall' only which was not brought forward here; or indeed, *according to others*, although it (*the calf*) has but the age of a 'colpach'-heifer of eight 'screpalls' *value*, it is from the excess of the improvement or increase that is upon it that it is worth three-quarters of the 'samhaisc'-heifer. And the land *remains* with the man against whom trespass is committed,[3] i.e. the land *remains* with the man who is trespassed upon in this case, i.e. after the term of the rent, when it is for rent that it (*the land*) was given; or, *according to others*, the land belongs to the man who has committed the trespass, i.e. after his paying the 'eric'-fine of his trespass.

There are *three* 'airlim'-trespasses for which no 'smacht'-fines are paid: every 'airlim'-trespass before a dog or a man; or an 'airlim'-trespass *in consequence* of heat or fear, or an 'airlim'-trespass owing to[b] any kind of violence.

In O'D. 403, the following condition is added:—

"If it be winter grass that is trespassed upon, two-thirds of the rent shall be the fine, i.e. of the rent which is paid for a 'Tir-cumhaile' of the best land *which is hired* for three-quarters of a year. There are three heifers *as rent* upon it for the three quarters; and two heifers, i.e. the two-thirds of the three heifers are the fine for 'feis'-trespass in a meadow of summer grass over a full hedge."

[a] Ir. *Without.*

[b] Ir. *Of*

JUDGMENTS OF CO-TENANCY.

Tait airlimenda, .i. atait leimenna do niatair ar in fer no ar in arbar ocus eimditċnitseig iat can smaċt orra and. Caċ airlim ria coin, .i. ag teiṫe ria coin. No duine, .i. ag teċe ria ndainib. Airlim naibil, .i. in tan bis aibell orra re teas ngréine. No omna .i. ria creich, no re coibdin. No airlim neicne cipsí, .i. cibeḋ eigen, .i. torunn no tene saignen.

Smaċt dia cuicṫi iar fogail cona focal cona cruas ocus a lomdata. Treinib smaċta caċ coir, trian son di coirce aire.

Ma fer for aill assenar and a taeb no a naircend, ma fer folaid, no fer samla, icar a caiche a reir na comaichid.

Smaċt dia cuicṫi, .i. ini smaċtaigter uaḋ i forba cúicṫi iar ndenam na fogla, .i. na meiċ, .i. anaḋ treisi for in smaċt, ocus diṫim cuicṫi. Cona focal, .i. na miach, .i. narub searb iatt. Cona cruas, .i. narub tais. Lomdata, .i. gran lomset lomconda fema flesc, .i. gurub data he ocus he lom, .i. cin colg. Treinib smaċta caċ coir, .i. treiniugad ar in smaċt do reir coir. Trian son di coirce aire, .i. trian a mbiḋ ar in coirci ocus ar ind eornaig, is seḋ ata ar in coirce aonur, ocus do triun loġa

Ma fer for aill, .i. ma fer do berar isin fer eile ar son aithgina, .i. ma fer ethúim ro brondad and, diablaḋ do feoir anethúim tar a eisi munab fuil etham aigi. A taeb, .i. fada. No a naircend, .i. gairid. Ma fer folaid, .i. na caille. No fer samla, .i. na mona, .i. in tsléibe. A reir na comaichid, .i. aithgin an cinaig sin amuil is riar ris na comaichib, .i. ardomes do usa na comaichid air, muna faġtar fer a commaith ind ar son aithgena, ocus neiṁbeṫ feoir a comaicinta aigi fodera.

Cair—can miter caiche tire? As a fochracaib; ma

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[1] *Fear.*—Dr. O'Donovan remarks upon this—"The gloss is here transposed, and should be restored to its proper order thus:—

"Fear, i.e. of thunder or lightning. Or an 'airlim'-trespass owing to any kind of violence, i.e. before a foray, or before plunderers, or any violence whatsoever."

JUDGMENTS OF CO-TENANCY.

There are *three* 'airlim'-trespasses, i.e. there are *three* leaps which are made upon the grass or upon the corn, and they are freed from paying 'smacht'-fine for them. Every 'airlim'-trespass before a dog, i.e. in running off before a hound. Or a man, i.e. in flying before men. An 'airlim'-trespass *in consequence* of heat, i.e. when they (*the cattle*), are running from the heat of the sun. Or fear,[1] i.e. before a plundering party,[a] or a band *of depredators*. Or an 'airlim'-trespass owing to any kind of violence, i.e. whatever violence it may be, i.e. thunder or lightning.

[a] Ir. *Prey.*

'Smacht'-fine *is paid* in five days after trespass with testing of the grain as to hardness and bareness. 'Smacht'-fines are three-fold by right, the third of which is *set aside* for oats.

If it be one *kind of* grass that is paid for another at the side or at the extremity *of the field*, whether it be hidden grass or coarse grass, let the fines be paid according to *the arbitration of* the co-tenants.

'Smacht'-fine *is paid* in five days, i.e. the thing which is commanded *by law* to be paid by him[b] *is to be rendered* at the expiration of five days after the commission of the trespass, i.e. 'the sacks,' i.e. there is a stay[1] of three days upon (*for the payment of*) the 'smacht'-fine, and a delay in pound of five days. With testing, i.e. of 'the sacks,' i.e. that they are not bitter (*foul or mawkish*). As to hardness, i.e. that they be not moist. Bareness, i.e. the grain which they eat bare, that it be not dirty or chaffy, i.e. that it be well coloured and bare, i.e. without chaff. 'Smacht'-fines are threefold by right, i.e. there is a threefold division of the 'smacht'-fine by right. The third of which is *set aside* for oats, i.e. the third of what is for oats and for barley, is for the oats only, and its value is one-third.[c]

[b] Ir. *From him.*

[c] Ir. *For a third of its value.*

If it be one *kind of* grass *that is paid* for another, i.e. if it be grass that is given for another grass as compensation, i.e. if it be rich grass that has been spoiled in this case, let him (*the trespasser*) give twice the quantity of poor grass in return for it, if he has not rich grass. At the side, i.e. long. Or at the extremity, i.e. short. If it be hidden grass, i.e. of the wood. Or coarse grass, i.e. of the mountain, i.e. of the moor. According to the co-tenants, i.e. the compensation for that trespass *is* according to the opinion of the neighbours, i.e. the arbitration of the neighbours *decides* upon it, unless grass equally good is obtained for it as compensation, and his not having grass of the same nature is the reason *of its being decided by arbitration.*

Question—How are land trespasses estimated?—From its rents; if it be winter grass that is injured,

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[1] *A stay*, i.e. the period during which cattle distrained remain upon security in the hands of the owner; but the 'stay' comes first, then 'delay in pound' follows it, and then three days of grace called "Ꞇꞃeıꞅı ımcoımnıġṫe," in the Irish Laws: *vide* Senchus Mor, vol. 1, p. 79, *et seq.*

JUDGMENTS OF CO-TENANCY.

gaimfer ro horgtar and, da trian a fochraca ise a caiche; mas samfer, is trian.

Cair—can miter caiche tire? .i. comaircim canas a meisemnaigter na cinta do nither risin ferand. Asa fochracaib, .i. ar in ferann fein ro finntar in fer etham no anetham millter and. Ma gaimfer, .i. mad he fer in geimrid oirgter and. Da trian a fochraca ise a caiche, .i. da trian na deiġcreici ata ina feis, ocus ina nairlim isseḋ ata ina airlim nama; uair ceiṫri meiċ ata na feis, ocus da miach na nairlim. Da trian focreca ata ar tir cumaile do netham is ferr co cenn tri raiṫi isseḋ uil i feis diguin feoir ethemain geimreta tar lan ime, .i. tri screibuill ris na trí raiṫi, .i. da screpull i feis ngeimre, ocus screbull i feis an samraiḋ, ocus is e sin trian na tri screpoll. Mas samfer, .i. fer in tsamraiḋ, is trian a buil na feis, ocus na airlim ata na airlim nama, .i. da miach ina feis, ocus miach i nairlim.

Caithe muc. Ma gleiṫis fer caichach amuil caiche
O'D., 1226. cethra olcena. Ma fochlaiḋ tire [tir] for aill co
O'D., 1226. ro dlomtar a dearusc· [1.] co rucar da ech a corait
O'D., 1226. ocus leicar and, co [na] toiglen ni a fiacla as oc a gleiṫ.
Is and is dearusc.

Leṫ caichach a tairsce, o caichach ma caichaċ naiche.
Ar ata i ndlige na feine buachaill oc caċ cethra
O'D., 1226. fri de [sceo aidċe]; is de ata cond bo buachaill i mbansoillsi; a mbeit i mbuaile fo iaḋu an oiḋċe; ina muca i feis i foil a naiḋċe; ina bai bit a mbodaingen; eich i cuib rech teachtra no a ninde; caire a lais.

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[1] *Fair rent.*—'Deiġcreic' is glossed 'cendach' in Rawlinson, 487 (O'D. 2115.)

[2] '*Tir-cumhaile.*' A piece of land measuring 12 'forrachs' in length, and 6 in breadth, *Vide* C. 252, and O'D. 1462. *Vide* also vol. 3, p. 335.

two-thirds of its rent is *the fine for* the trespass; if summer grass, it (*the fine*) is one-third.

Question—How are land trespasses regulated? i.e. I ask whence are estimated the trespasses that are committed upon the land. From its rents, i.e. on the land itself it is known whether it is profitable or unprofitable grass that is injured on the occasion. If it be winter grass, i.e. if it be the grass of the winter that is injured therein. Two-thirds of its rent is *the fine for* the trespass, i.e. two-thirds of the fair rent[1] *or price* that is *paid* for its 'feis'-trespass, and 'airlim'-trespass is what is *paid* for its 'airlim'-trespass only; for it is four sacks that are *paid* for its 'feis'-trespass and two sacks for its 'airlim'-trespass. Two-thirds of the rent which is *paid* for a 'Tir-cumhaile'[2] of the best land to the end of three-quarters *of a year* is what is *due* for 'feis'-trespass in a meadow of winter grass-land over a full fence, i.e. three 'screpalls' for the three-quarters, i.e. two 'screpalls' for 'feis'-trespass in winter and one 'screpall' for 'feis'-trespass in summer, and this is the third of the three 'screpalls.' If it be summer grass, i.e. the grass of the summer, it is one-third of what is *due* for its 'feis'-trespass and for its 'airlim'-trespass that is *due* for its 'airlim'-trespass only, i.e. two sacks for its 'feis'-trespass, and one sack for its 'airlim'-trespass.

The trespasses of swine. If they eat the grass, they are trespassers like other *grazing* cattle in general. If they root up the land, other land *shall be given* until the proof of the restoration *of the land* is completed;[a] that is, until two horses in yoke are brought and left there, *and it is seen* that no part of the earth stick to their teeth while grazing on it. Thus is it tested.[3]

[a] Ir. *Until its testing is seen.*

Half fine is *due* for 'tairsce'-trespass *by day* and full fine if it be trespass *committed* by night. For it is *a maxim* in the law of the Feini that every kind of cattle should have a herdsman by day and night; from which is derived *the saying* "the cow's sense *carrier* is her herdsman in the bright light;" that they should be in an enclosure at the fall of night; that the swine should be in their stye by night; that the cows should be in a cow-fastness; horses in their proper fetters or in a stable; sheep in their fold.

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[3] *Thus it is tested.*—The original seems to be defective here.

JUDGMENTS OF CO-TENANCY. Caithe muc, .i. cinta na muc. Amuil caiche cethra olcena, .i. amuil cinta na ceṫra olċena uile ċena um fiach duinecaiṫi orru. Ma fochlaiḋ tire, .i. mad toċailt in talmun do ne. For aill, .i. tir eile inn ar son aithgina. Co ro dlomtar, .i. cu randtar no gu nairneidither deirbcinne slainti in ferainn ro toċlaḋ ann. Da each

O'D., 1226. a corait [.i. coraegat, .i. na heich ind, isin ferand iardain]. Ocus leicar and, .i. isin ferand na heiċ. Cona toiglen ni a fiacla as oca gleiṫ, .i. cona deglena ni don talmain a fiacla ass aga foigeilt Is and is dearusc, .i. is and is dearbcinde slainti dó [.i. don dear].

O'D., 1226. [A derosc; Scuirtir da ech ann a coraid isaim cona toiglean fod lar in ngleiṫ sin, is ann dlomtair a derosc. Maḋ gleiṫ ro gelid na muca, is amail ceaṫra a caṫaiġ. Cia ro bai i sein breiṫaib gaċ clas ro claideaḋ do línaḋ do arbaim alaill do ímbim, ar ba heaḋ ba teċta leo frecor ceille in talmun dia torad fadesin; do deoċaid tra iarum for aithgin neiċ bronnair ann. Duinecaiṫe tra, imeaṫan tar tir do céile .i. araḋ ocus aiṫrebaḋ follscuḋ ocus foṫla ocus toṫla ocus an ocus airgriu.

Miach ar muic moir, leiṫ meich cacha ceiri, ceiṫri maim cach bainb; no dono leṫ meiċ ar caċ muic móir, cethramṫu meich cacha ceiri, ocus da maim caċ bainin. Co ruici ceiṫri seċt nanmanda atá in rith so; rith forr na muca mora cein biti ann. Is airi is lugu forr na banbu ina forr na aige, uair is lugu a nutmaill ina ceathrib.

Leath cathach a tairrsci .i. leṫfiaċ airlime in lae i tairrsgi in lae; lan fiaċ airlime lae no aidċe i tairrsce naidche; cutruma fer ocus ruiread na haidche. Cutruma airlim ocus ruiread in lae tar lan íme caċ nae; fer na aidche ocus a ruiread cona tarraċtain iar naidche ina laige, lán fiaċ feri indtib; airlím aidche ocus a tairrsge, leṫ fiaċ feri indib; ruiread lae ocus airlim lae it inanda; lethfiach airlime i tairrsge lae.

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[1] *An equivalent.*—'Aiṫgin' properly means a restoration of the same thing to the original owner, but it is frequently, as in this instance, applied to "the making good," or giving an equivalent for any loss, damage, or injury.

[2] *Two horses in yoke.*—The greater part of the remainder of this tract is taken from the MS. E. 3 5, in the library of Trinity College, Dublin. Rawlinson, 487, wants the glosses on the second part of the preceding text. They are taken from E. 3 5.

[3] *Carrying.*—For 'imeaṫan' of the text, the meaning of which is doubtful, C. 32, reads 'imseadain,' which means 'drawing,' 'pulling,' &c.

JUDGMENTS OF CO-TENANCY.

The trespasses of swine, i.e. the crimes of the pigs. Like the trespasses of cattle in general, i.e. like the trespasses of every other description of cattle when the fine for man-trespass is *charged* upon them. If they root up the land, i.e. if rooting of the land be what they do. Other land, i.e. when other land *is given* for it by way of an equivalent[1] *of the land which they rooted up.* Until the proof of the restoration, &c., is completed, i.e. until the certain reclamation of the land which they rooted up is announced. Two horses in yoke,[2] i.e. they are yoked [?] i.e. the horses on it, on the land afterwards. And are left there, i.e., the horses on the land. That no part stick to their teeth, i.e. so that no part of the earth stick in their teeth in grazing on it. Thus it is tested, i.e. it is then it certainly is determined that it is restored to its healthy state, i e. the land.

Its testing : let two horses be unharnessed *and placed* there yoked together *to graze,* when in grazing they do not pull up a sod, it is then the test is seen. If the swine have eaten the grass by grazing, their trespass is like that of other cattle. Although in the old judgments *it is ordered* that every furrow which they should root should be filled respectively with corn and butter, for they deemed it just that the land should receive *for the injury done it* an equivalent in its own produce ; yet it afterwards was exchanged for restoration of the thing which was damaged therein. Man-trespasses are, carrying[3] (*loads*) over your neighbour's land, i.e., 'aradh'-trespass, 'aitrebadh'-trespass, 'follscudh'-trespass, 'fothla'-trespass, 'tothla'-trespass ; 'an'-trespass, and 'airgsiu'-trespass.[4]

A sack *is the fine* upon a large pig, half a sack upon every slip (*young pig*), four handfuls[5] for a farrow pig ; or, *according to others,* half a sack upon every large pig, a quarter of a sack upon each slip, and two handfuls upon every farrow pig.[6] This addition extends to four times seven animals ; but it extends to the entire number[a] of the large pigs. The reason that it is less on the farrow pigs than upon the large pigs is, because their nimbleness is less than *that of* cattle.

Half fine is for 'tairsce'-trespass, i.e. half the fine of the 'airlim'-trespass by day for 'tairsce'-trespass by day; the full fine of 'airlim'-trespass by day or night for 'tairsce'-trespass by night; the 'feis'-trespass and 'ruirindh'-trespass by night are equal. The 'airlim'-trespass and 'ruirindh'-trespass by day over a full fence of any person are equal; for the 'feis'-trespass by night and the 'ruirindh'-trespass *when the cattle are* found after the night lying, there is full fine for 'feis'-trespass due for them ; for 'airlim'-trespass by night and 'tairsce'-trespass there is half the fine for 'feis'-trespass; 'ruirindh'-trespass by day and 'airlim'-trespass by day are equal; half the fine for 'airlim'-trespass *is due* for 'tairsce'-trespass by day.

[a] Ir. *While they are there.*

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[4] *'Airgsiu'-trespass.*—This remark about man-trespasses appears to be quite out of place here. It is not easy to determine the different sorts of trespass mentioned.

[5] *Handfuls.*—'Mam' is as much as can be taken up between the two palms of the hands held together.

[6] *Farrow pig.*—That is, a young sucking pig.

Odcathach ma caṫach aidċe .i. ogfriach airlime in lae tairsge na haidche. Ar ata a ndligeḋ na feine .i. ar ata a ndligeḋ in fenechais. Fri de .i. isin lo. Sceo aidċe .i. uirre bodein.

.I. Comíngaire tra: cia cruṫsaide a hurlainn ceaṫra ocus sealb? .i. dia ba déc for ala, ocus secht ngamna ocus secht muca ocus secht cairiġ. Ní tiaġad oirc na huain a comingaire co lunasaḋ. Ní ro briaṫar la caċ ín ala ar coin ocus ceaċair ocus ceaṫras, ocus adgeniṫar uad dia ceille; adrodmad a comingaire fia fiadnaib amuil do coisead for nadm ann ocus raṫa, acht mad ar conaib allta nama. Ronasar a comíngaire, ní téid cin ceaṫra na ceaċra fairm iarum, acht do airsena ín mairt do fiadnaiḃ.

Cesc.—Cia lín saertair do comingaire? Nín: Fer tire nama, ar dligidside la caċa ceaṫra do ingaire do; cia béċ dona bó no allau fair, no cairiu, no dono gamain no allau, ocus ni tormaiġ lá; cét fir baid de, ní dibaiḋ la.

Comingaire dono, no airim for meid sealba caiċ dí dír meid airme .i. bo co colpaċ for inaḋ daim; colpaiċ o meid dairidar is for inad bo tiaġaid; ci asbeirid araile [dam] for ined ndaim, bo for ined bo, aġ for ineḋ aiġe, ar gealaid dia boin seaċ rodam. Ni ciuraid commae ín ferdam fris an airise, nís dia ceaṫra fadesin fora a línfa an airim dligsidter de; ar a da géd for ined caireċ, ocus dia ċuira for inaḋ darta, dí dairt for ined ċolpaiġe, dia colpaċ for ineḋ bo, bo co colpach for inaḋ ndaim. Ro-tarb, suasdaumha, ocus damconchaid, ní tiaġad a comraind,

Cid so dera son? Nín. In tarb cetamus, is cuma dairside a ceaṫra fadesin, ocus ceaṫra caċ aín bis oca i mbuaile. Dam concaiḋ dona, is cuma ímditside a ceaṫra ocus ceaṫra a

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[1] *Common pasturage.*—This commentary is not in H. 3, 17, nor in Rawlinson, 487.

[2] *No engagement is given by one to the other.* There is no contract between the parties ("commoners") as to ordinary accidents; they are in the same position as if

Full fine if the trespass has been committed by night, i.e. the full fine for 'airlim'-trespass by day for 'tairsce'-trespass by night. For it is a maxim in the law of the Feini, i.e. for it is in the law of the Feinechus. By day, i.e. in the day. And night, i.e. in *the night* itself.

Common pasturage[1]: what is its nature as to the green of cattle and flocks? i.e. twelve cows in a herd, and seven yearling calves, and seven pigs and seven sheep. Farrow pigs or lambs do not come into the common pasturage until Lammas-day. No engagement is given by one to the other[2] *with respect to protecting the herd* from dogs, quagmires, or cattle gorings, or from what they may do to one another; their common pasturage was arranged before witnesses, as if upon securities and guarantees, excepting *protection* against wild dogs only. *As to* what is legally placed in the common pasturage, no trespass of cattle or quagmires is considered with respect to it afterwards, but the carcass *of the animal which is killed* shall be shown to witnesses.

Question.—How many are freed from *the responsibilities of* the common pasturage? Answer—The owner of the land only, for he is entitled to a day's herding for every head of cattle *on his land;* for although there should be a cow or its value (*equivalent*) due from him, or a sheep or a yearling calf or its equivalent, and it does not add a day; though these should be separated from him, it does not lessen a day.

Now, *in* a common pasturage there is a calculation made of the size of each person's cattle[a] to adjust his responsibility, i.e. a cow with a heifer in lieu of an ox; heifers from the size at which they are bulled pass in the place of cows; though others say it is an ox in place of an ox, a cow for a cow, a calf in place of a calf, for two cows graze more than[b] the great ox. The equivalent of the bull is not put in this enumeration, there is not of his own *species of* cattle any even number that would fill up the number which would be required for him; for two geese are in lieu of a sheep, two sheep in lieu of a 'dairt'-heifer, two 'dairt'-heifers in lieu of a 'colpach'-heifer, two 'colpach'-heifers in lieu of a cow, one cow with a 'colpach'-heifer in lieu of an ox. The great bull, the 'suasdamha'-ox, and the 'damh-conchaidh'-ox do not come into the enumeration.

What is the reason of this? Answer—The bull, in the first place, bulls equally his own cattle, and the cattle of all which are with him in the enclosure. The 'damh-conchaidh'-ox equally protects his own cattle and the cattle of his neighbours.

[a] Ir. *Possession.*

[b] Ir. *Beyond.*

they had come to an agreement reciprocally to this effect, excepting always the case of wild dogs (the property of one of the parties).

JUDGMENTS OF CO-TENANCY.

comaiċeaċ. Is aire sin ní tiagaid coslaigṫe a nairim, arus cuma ronic caċ a leas. Dligid caċ buaċaill a biaṫaḋ.

Muca dona, ní tiagad itir comairme aċt muca air, ínge tir frobaige co meas. Comsa dona, slan caċ comsa caċ cumaiḋ caċ comíngaire, aċt indraḋ no indraṫ no algain.

Cia forai ceaṫra cúiċ fri raile aċt fairgide no guinide, no cona a furbaiḋ aicearus caċ a chin fuċtois uigaib? Mad aḋ ro toir anaill, orgar dono an aġ no noirg, ocus rannaid ín da mart netorro i nde, fobiṫ bes fris it rogart no commart an ag dia laile; aċt ní etar a rogart a nert netarro. No, ma fearr lais, focerdat crann ím an aġ mbeo dus ci da lína aneren do alaile as. Ite a mbreaṫa annso tra, muna feasdar guínide fors in naġ riam; dia feasdar, bereaḋ in fer bes ae mart a aiġe, ocus asrean a ceile aġ fo laill do; ocus maḋ ḟed ro toir an aġ, fo cerdcar crann forro a hurlann sealb dus cia dib do toṫ broba do tabairt, ocus dombeir iarum in tí ḋia tuit, ocus aneirined a ceile do urland sealb ocus ceaṫra. Biṫ mart an aiġe atarrtu, ocus amuil fodailit an eirce is amlaiḋ rannaid mart an aiġe atarro.

As de ata cond bo a buachaill .i. is de is condach do na baaib a mbuachaill. A mbuailaid .i. na mbo .i. a samrad. Mad muca .i. i fail i faeat na muca isin naidċi.

.i. Muca imurro: muc orro caċa feisi, ocus bainb caċ airlime, ocus aġ a noire feoir; ar dliġiḋ in fogealtaḋ sin a imcoméd co léir. A feis a foil fo ceiṫrib roidaib in aḋaiġ, ocus muicaide ocaib fri de. Is de is beir isin Coir féine bic; Dia mbed muca moaidter, arus cru cumair ar seis sedaḋ beil míḋbaḋ bru uaid minraind naċermar ninnair im cuca claise caċ aen comarba coir coirtnes minniges.

Mad ba, bid i mbodaingean .i. bit a ndaingen na mbo, i mbuailiḋ no i mbotigib.

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[1] *Commons.*—The word 'comsa' here translated 'commons,' may mean a 'litter of pigs.' If so, the whole passage would signify, "As to a litter of pigs, every

JUDGMENTS OF CO-TENANCY.

For this reason 'ceslaithe'-cattle do not come into the enumeration, for all stand in need of them equally. Every herdsman is required to feed them.

Pigs, too, do not come into the enumeration of land stock unless they be old pigs, excepting on wood land with masts. *As to* commons,[1] every commons is free to every grazier of the common pasturage, except for plunder, or trespass, or knowledge of crime.

Why are the cattle of all placed together, except gorers and fierce cattle, or that it is from the wounding that everyone shall claim the fine for his attack from him?—If it be a calf that has killed another, let the other that has killed it be slaughtered, and let them (*the owners*) divide the flesh of both between them into two *equal* parts, because of the killing by the former; or, let the flesh of the killed calf be divided between them; but this cannot be enforced between them. Or, if it be preferred, let them cast lots for the live calf to know which of the two should pay the other for him. These are their judgments here, unless the calf had never been known before as a gorer; *but* if he had been known *as such*, let the man whose property he is take the flesh of the calf, and his neighbour shall give him another calf; and if he slaughters the calf, lots shall be cast upon them on the green of the cattle to know to which of them the guilty party by right should be given; and the man to whom it has fallen afterwards obtains him, and his neighbour gives him away in the green of the flocks and cattle. The flesh of the *killed* calf shall be between them, and as they divide the 'eric'-fine, so they divide the flesh of the calf between them.

From which is derived *the* saying "the cow's sense is her herdsman," i.e. it is from this it is *said* that their herdsman is the sense-carrier to the cows. In an enclosure, i.e. of the cows, i.e. in the summer. If pigs, i.e. into a stye the swine shall go in the night.

That is, as to pigs: a pig *is the fine* upon them for every 'feis'-trespass, and a farrow pig for every 'airlim'-trespass, and a calf as 'dire'-fine for grass; for it is right that pasture should be wholly guarded. They should lie in a stye at four roads by night, and they should have a swineherd by day. From whence it is said in the *law called* 'Coir Feine Bec;'[2] "If there be a swineherd, it (*the fine*) is increased, for their stye should be at the meeting of roads that lead into the middle of farms which are partitioned into small divisions, each 'coarb's' division being marked and divided by furrows."

If cows, let them be in a cow fastness, i.e. let them be in the fastness *legally erected for the protection* of the cows, in an inclosure or in cow-houses.

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litter of pigs is free *to graze* on every commons, every common pasturage," &c.

[2] *Coir Feine Bec.*—A tract not known now. The translation of the extract is only conjectural.

JUDGMENTS OF CO-TENANCY.

.1. Cia ro badar smaċta mara ann, ceiṫri la imbed na hindille, ocus caemna in tire aurroi, na hedu isin cét feis, a tanaise is dala feis, leṫdilse neiċ adroreasda is in treas feis, oḋilse neiċ adrorasdar isin ceatramad feis; arus araċ ocus atraḃ iar sin. Is amne tra asranndais smaċta cetamus, aċt na herlímeanna doslia dilse.

Cadiad saide? Nin—Eirlím neigne ria coin no duine; erlím ria torainn no aibeall, no eirlim aċt adroirisdair a ndiaid riasiu ro drengad taris. Ité eirlimeanna ím ad ícead smaċta.

Co ducod tra for darta ocus dartaige la caemna ín luic ocus meid ín re, conaḋ é smaċt fora ducaíd a seimeaḋ. Ciasberad alaile is ógeirlim aċt do coisead da naġ dec índ. Leṫ meiċ caċ ulgaib o dum co dartaiḋ fri feis, aċt is feis caċ liġe caċ tarraiġe. Os mad beg ín tir ro hortar ann imbi ní bi fearr miaċ no caireaċ i toraḋ bis ann, miter aní bes friu, ocus do beir díabul foċraice tar a eise.

Cesc—Cid as a miter son? Nín:—Tir fo crean boin co ceann mbliadna, ida miaċ dec dono focreanad son; oċt meiċ ar geamfuaċt, ocus a ceṫair ar samfuaċt. Mad gemfuaċt oġ ro ortar ann, assreanidar a hoċt ind, ocus aġ a ndíre foir. Maḋ samḟuċt ro horṫor ann, assrenidear ceiṫri meiċ inn, ocus aġ a ndire a feoir.

Assreanidar tra na smaċta dia treisi iar fogail o taiċarais, muna eirliġter tra i coraib bel; aen smaċt ar caċ ceaṫra ad rogma for tír. Ise in smaċt fil ar caċ ceaṫra díb, miaċ caċa feisi, ocus leṫ meiċ caċ eirlíme ar caċ seċt mbuaib.

Eich i cuibreach techta no na ninde .i. na heich ina cuimrech dligṫeċ, in cenn fri bac ina nechailsib.

.1. Eich, a smaċta amail caċ ceaṫra fogealtad fri na hurgabala dianair fer. Ar do gaib na heoċo ocus ċuímnícius, ocus ata-

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[1] *The trespasser.* 'Caireaċ,' may possibly mean "a trespasser" or "criminal," but, from the context, it is hard to see how it can bear such a sense here.

That is, though there were great 'smacht'-fines therein, four *sacks* with the increase of the cattle, and the protection of the country; these cases *occurred* for the first 'feis'-trespass, a second in the *case of a* second 'feis'-trespass, forfeiture of half what arrived for the third 'feis'-trespass, entire forfeiture of what arrived for the fourth 'feis'-trespass; for it is tying and dwelling after that. Thus they used to divide the 'smacht'-fines at first, except *in case of* the 'airlim'-trespasses, which do not deserve forfeiture.

What are these? Answer.—Forced leaping before a dog or a man; leaping on account of thunder or sultriness, or a leaping, but so as they are pursued before they could get over. Such are the leapings for which 'smacht'-fines do not lie.

Until it amounts to a 'dairt'-heifer and a yearling with *the fine imposed by* the protection of the place and length of the time, the 'smacht'-fine to which it amounts is to be proved. Though others say that full leaping-*trespass* is committed, if twelve calves have gone into it (*the field*). A half sack *is the fine* for every animal from the ox to the 'dartaidh'-heifer for 'feis'-trespass, but every lying down in which it (*the animal*) is caught is 'feis.' If the *extent of* land which had been damaged on the occasion be so small that the produce which is there is not better (*more valuable*) than a sack or the trespasser,[1] let the value of it be estimated, and he shall obtain double the hire (*rent*) afterwards.

Question.—From what is that estimated? Answer.—Land which a cow pays for to the end of a year, it is twelve sacks that would purchase this; eight sacks for the cold season, and four sacks for the hot season. If the damage has been committed in full winter, eight sacks shall be paid for it, and a calf as 'dire'-fine for grass. If it be in the summer that the damage has been committed, four sacks shall be paid for it, and a calf as 'dire'-fine for its grass.

They shall pay the 'smacht'-fines in three days after the trespass has been committed, unless indeed by verbal engagements it is *otherwise* arranged; it is the same 'smacht'-fine that shall be paid for every *kind of* cattle that is caught upon the land. The 'smacht'-fine that is upon every cattle of them is a sack for every 'feis'-trespass, and a half sack for every 'airlim'-trespass upon every seven cows

Horses in their lawful fetters or in their stables, i.e. the horses in their lawful fetters, the head to the staple in their stables.

That is, *as for* horses, the 'smacht' fines are like those of any other cattle which consume fodder after their being taken *in trespass.* For the horses are taken and detained (*i.e. impounded*), and notice

baind do fir bede heiċ, dian fearsar; muna fearsar, atabaind ac dun tigerna ber nesom, ocus oc dun breiṫeaman na tuaiti, ocus oc cerdċa gobann, ocus oc primcill na tuaiṫe; ocus ata baind samlaiġ fo na criċa olceana ocus comnítus cot,

* * * son dia cuic la déc, no fichit aiḋċe, no mís, os dian do ti fer bíde héich re naimsir a niṫma. Ocus cia fogealtaḋ fil doib? Nin:—Miaċ caċa mís do buaib ocus eachaib, míaċ ocus leṫ meith do dam, muna cuibniġter; dia ċuibníġter imurro, is miaċ caċ lai co naiḋċi. Teid ín tiarfaiġe fo cominnrice fris a foasc, rannaid a fogealtad atarroi í nde; muna tí imurro, is oġ a fogealtad don ḟir cuibnígter. Na ro meaṫa a fasc fors in fer cuibniġter, ocus dia di a ceile co níarair teċta, ocus co fiadnaise índric, ocus co naeṫaib, forruaislicear ín coimdead, beraiḋside a ceaṫra, ocus assean fogealtad.

Ciasa fogealtad son? .i. miaċ caċa mís, ar us fogealtad ceaṫra fil doib asuiġe, ní fogealtad athgabala.

Maḋ on mí sin ín nonn, ní haclaiġ cia fognaiġter innaib .i. a nḋamaib ocus eaċaib ocus ba bleċta do bleoġan; aċt ní teit fogealtad forro ín ré foġnad.

Smaċta foṫla ocus toṫla.

Foṫla din, dam do thiġ ocus scuiread ann a tir a ceile, ím comirc doib cíasa hairm ín ro scuirsid. Ro scuirsim i tir índ fir seó. Ma forcongrasom a tabairt as naċ faemasom, ité assreanad caiċe a neach iarum. No araile dono, adcísium na srianа leo, ocus ní ímcomircba doib, is tusa assean ín caṫaiġ sin, mad áinbfis dono daím ín tír ín ro scuirseat a neoċo.

Tothla dono; asbeirsium fri daím amra scor ín tire; is

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[1] *Are detained.*—There is an erasure here in the M.S.

[2] *The keeping.*—That is, of the cattle out at grass under the care of proper herdsmen.

[3] '*Tothla*'-*trespass.*—'Fothla' usually means 'eluding,' 'evading,' &c., and 'Tothla,' 'demand,' 'claim,' 'request.'

JUDGMENTS OF CO-TENANCY.

is given to the man whose horses they are, if he be known ; if he is not known, notice is given at the 'dun'-fort of the nearest lord, and at the 'dun'-fort of the Brehon of the territory, and at the forge of the smith, and at the principal church of the territory; and notice is likewise given throughout the *neighbouring* territories, and they (*the horses*) are detained[1] till the expiration of fifteen days or twenty nights, or a month, if the man whose horses they are does not arrive before that period *which is that* of their delay in pound. And what expense of feeding is *due* for them? Answer.—A sack every month for cows and horses, a sack and half a sack for an ox, unless he has been impounded ; but if he has been impounded, it is a sack for a day and night. The keeping[2] comes under the same estimation as the impounding; they shall divide the expenses of feeding in two between them ; if he (*the owner of the cattle*) does not come, the expenses of feeding are entire to the person who has impounded. If the man who has impounded has failed to give the notice, and if his neighbour should come with the lawful following, and with worthy witnesses, and with oaths, the lord shall relieve him, he shall obtain his cattle, and he shall pay the expenses of feeding.

What are these expenses of feeding? A sack every month, for it is feeding for cattle that is *due* for them in this instance, not expense of feeding for distress.

If it be after this month nothing is demanded if service is obtained from them, i.e., from oxen, and horses, and milch cows which are milked ; but no expense of feeding is charged[a] upon them while they render service, i.e., *do work or give milk.*

[a] Ir. *Goes.*

'Smacht'-fines for 'fothla'-trespass and 'tothla'-trespass.[3]

'Fothla'-trespass is *committed when* a party of people come and unharness their horses in the land of a neighbour, asking what place it is in which they have unharnessed. Ye have unharnessed in the lands of this man. If he has ordered them to betake themselves from thence, and that they do not comply, they shall pay for the trespasses of their horses afterwards *committed.* Or—it is otherwise, indeed, *if* he sees the bridles with them, and he does not question them, it is thou who shalt pay for that trespass if the party are ignorant of what land they have unharnessed their horses in.

As to 'tothla'-trespass, now; this is said of an unknown party who have unyoked *their horses* in the land; and thou hast given

JUDGMENTS OF CO-TENANCY. amne ín coisce doib scor ann, aċt nad neibre dod belaib nama; as tusa assrean ín caṫaiġ sin iarum amuil bid a ceaṫra fadesin. Fo roisiḋ ímbed smaċta faiṫci beiti a treib.

C. 28. Cairig ina liar, .i. na cairig do bith ina cru.

[.1. Cairig imorro, it smaċta airlime do suidib, ar ni fil fesa doib, .i. damna feirtse caċa airlime fri lom, damna certle de diguin.]

Ata dono orcc conrannda cindta fri tret, ocus ag conrannda cindta fri heṫ; oircc peata bis a lis no a faithċe, lingeas eirlím a ngort faiṫċe fa di, fa tri, fa ceathair, an aen laithe; ní líng imurro, in tret aċt aen erlim; conrandad chindta iarum í nde.

Aġ dono, conranna cinaid fri hed, forrgid gealeas tar geilt níndriċ, no tar ime níndric.

Ata dono orcc .i. ata dono orc urrannas cinaid ris in tret ris in nailbín i fuilit seċc nanmanna Fri tret .i. im cutruma orro. Ocus ag .i. ag urrannas cinaid ris in tret ris in nailbín i fuilit seċt nanmanna fos ím catruma. Oircc peata .i. in peta robi ina urc.

.1. in toirc peata brisear ar dus ocus berear eolus res in tret, cutruma fri da nanmanna do smaċt fair, ocus fri haen anmann daithgin. In feċt tanisde teid, cutruma fri ceiṫri hanmannaib fair do smaċt, ocus cutruma fri da anmanna daithgin. In trear feaċt teit, cutruma fri trí hanmanna daithgin, ocus fri seċt nanmanna do smaċt fair. In ceaṫraimte feċt teit, cutruma fris in tret uile fair do smaċt, ocus cutruma fri ceiṫri hanmanna daithgin, ocus as e in tret berear caċ feaċt.

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[1] *Sheep in their fold.*—The text here is from O'D., 1226 (E. 3. 5, p. 2, col. 1). The reading in O'D., 2172 (Rawlinson 487, fol. 65, p. 1, col. b), is "caíre a liar;" and that in C. 28 (H. 3. 18, p. 12), is "cairig illiar;" the orthography varying as usual in the different MSS. in nearly every single word.

[2] *The litter.*—O'D., 2173, has here, "There is as large a fine upon the pet young pig, as upon seven animals, who goes *into the garden* the first time. . . There

JUDGMENTS OF CO-TENANCY.

them to understand that it is allowable to unyoke there, although thou hast not said so by word of mouth; it is thou who payest for that trespass afterwards as if it were thy own cattle *that had committed it.* It may reach the amount of 'smacht'-fine *payable* for trespass in a green adjoining a house.

Sheep in their fold,[1] i.e., the sheep to be in their fold.

The sheep have fines for 'airlim'-trespass imposed upon them, for there is no fine for 'feis'-trespass, i.e., the makings of a spindle (*of wool*) for every 'airlim'-trespass into bare *grass,* the makings of a ball into preserved grass.

There is a small pig that shares the fines with the herd, and a heifer which shares the fines with the herd; a pet young pig which is *kept* in an enclosure, or in a green, which makes 'airlim'-trespasses into the garden of the green twice, thrice, four times in one day, but the herd makes but one 'airlim'-trespass; they divide the liability afterwards between them into two *equal parts.*

The calf, too, pays equal fine with that of the herd *where he is* a trespasser that passes over the lawful pasture, or over the lawful fence.

There is a small pig, i.e. there is a young pig which shares the fine with the herd, with the flock in which there are seven animals. With a herd, i.e. the same upon them. And a calf, i.e., a calf which shares the crime with the flock or the herd in which there are seven animals, in equal parts. Pet young pig, i.e., the pet of the litter.[2]

That is, the pet young pig which first breaks *through the fence,* and shows the way to the herd, there is a 'smacht'-fine[2] upon him equal to that upon two animals, and compensation equal to that of one animal. The second time that he goes, there is a 'smacht'-fine upon him equal to that of four animals, and compensation equal to that of two animals. The third time that he goes, there is compensation upon him equal to that of three animals, and a 'smacht'-fine equal to that of seven animals. The fourth time that he goes, there is a 'smacht'-fine upon him equal to that upon the whole flock, and compensation equal to that upon four animals. And he leads the herd each time.

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is on him only the same fine as on every other *animal* the first time, the same as on two, however, every time from that out."

[2] '*Smacht*'-*fine.*—That is a fine for violating the law; 'aithghin' is compensation for the actual trespass committed in injuring the corn, grass, &c.

JUDGMENTS OF CO-TENANCY.

Ma do cuaid a aenur fa trí fia fiadnaib, ocus ro hícfead caċ na, ocus ruc tret in ceṫrumad fecht, cutruma fri da nanmannaib fair do smacht ocus fri haen anmann daithgin.

Ma do cuaid na haenar fo tri fia fiadnaib ocus nír hicad naċ na, ocus ruc tret iar sin, cutruma fris in tret fair do smacht, ocus cutruma fri ceiṫri hanmanna daithgin; no, ma do cuaid a aenur fa tri, ocus ni ro hicad, ocus ruc tret in treas feacht, cutruma fri se hanmanna fair do smacht, ocus cutruma fri tri hanmanna daithgin.

Ma do cuaiḋ co fa dí a aenur, ocus ní ro hicad in cet fecht, ocus ro hicad ín fecht tanisde, cutruma fri da hanmanna fair do smacht ocus fri haen anmann daithgin.

Ma do cuaid co fa di a aenur, ocus ro hicaḋ ín cet fecht, ocus ní ro hicad in fecht tanísde, cutruma fri secht nanmannaib fair do smacht, ocus cutruma fri da anmanna daithgin. Samlaiḋ dono ín taġ.

Bis a lis, .i. tall. No a faithċe, .i. amuich. Lingeas eirlím, .i. lingid seic ar a leim air, ar ín fer no ar ín arbar. Fa di, .i. co fa do. Fa tri, .i. co fa tri. Fa ceathair, .i. co fa cethair. An aen laithe, .i. i naen lo teit inunn he in tan is cutruma air ocus ailbín i fuilit secht nanmanna. Ní ling imurro in tret, .i. noco lingenn in tailbin acht aen leim air in tan is cutruma orro. Conrandad chindta iarum inde, .i. is caín urranait a cinta etarru iarum ar do, im cutruma airsium i ndul anunn co fa cethair, ocus orrosum i ndul inund aenfeacht. Aġ dono, conranna cinaid, .i. is e cuit ín dono and, dona mucaib ro airneid romaind. Forrgid gealeas, .i. fer maiṫ occi, ocus teit tar airbid do saigid feoir aili; no dono, geilt eisinraic oici, ocus teit tar íme níndraic.

.1. Forrgid as anim do o rachas as a daġ fer fein a ndaġ fer neiċ aile, cid ar ime cin co beḋ; no as a droċ fer fein a ndag fer neiċ aile o bus tar íme deaċ, no gid tar imme gín co bead deaċ as a daiġ fer fein a ndaġ ḟer neich aile. Ní raite forrgid fria cia no dicsead as a droch fer fein a ndaiġ fer neich aile, munab tar imme deaċ.

[1] *Lawful.*—The word 'indraic' means 'worthy, pure, honest, perfect, complete lawful.'

Judgments of Co-Tenancy.

If he has gone alone thrice before witnesses, and he (*his trespass*) has been paid for each time, and that he has led the herd the fourth time, there is a 'smacht'-fine upon him equal to that of two animals, and compensation equal to that of one animal.

If he has gone alone thrice before witnesses and has not been paid for each time, and he has led the herd afterwards, there is a 'smacht'-fine upon him equal to that of the herd, and compensation equal to that upon four animals; or, *according to others*, if he has gone alone thrice, and has not been paid for, and has led the herd the third time, there is a 'smacht'-fine upon him equal to that of six animals, and compensation equal to that of three animals.

If he has gone twice alone, and has not been paid for the first time, and has been paid for the second time, there is a 'smacht'-fine upon him equal to that upon two animals, and compensation equal to that of one animal.

If he has gone twice alone, and has been paid for the first time, and he has not been paid for the second time, there is a 'smacht'-fine upon him equal to that of seven animals, and compensation equal to that of two animals. The calf indeed is similar *as to fines*.

Which is *kept* in an enclosure, i.e., within. **Or in a green**, i.e., outside. **Makes 'airlim'-trespasses**, i.e., he leaps a leap, a leap over upon the grass or upon the corn. **Twice**, i.e., two times. **Thrice**, i.e., three times. **Four times**, i.e., to four times. **In one day**, i.e., it is in the one day he goes over *the fence* when there is *a fine* upon him equal to that upon the herd in which there are seven animals. **But the herd makes *but one 'airlim'-trespass***, i.e., the herd leaps but one over-leap when the fine on them is equal *to that on the pet young pig*. **They divide the liability afterwards between them into two equal *parts***, i.e., they divide the fines afterwards fairly between them into two *equal parts*, an equal share on him for having gone over four times, and on them for going over once. **The calf too pays equal fine**, i.e. the force of the *particle* 'too' here is, *because* it was of the pigs we have treated before. **A trespasser that passes *over the lawful pasture***, i.e., he had good grass himself, and he goes over a palisade fence into other grass; or, indeed, he has unlawful pasturage, and he goes over a lawful[1] fence.

A trespasser is the name *given* to him (*the calf*) when he goes from his own good grass into the good grass of another, whether over a hedge or not; or from his own bad grass into the good grass of another over a good fence, or whether he has gone over a fence or not, he has gone from his own good grass into the good grass of another. He should not be styled a trespasser though he should have passed from his own bad grass into the good grass of another unless he has passed over a fence.

Cair—caide in ime indric?—Mad cora, cora tri liag, tri traigte a leithead, da dornn deg dia hairde; mad clas, tri traigṫe a leithead ocus a doimne; traiġ a leithead tis iar nichtar, tri traiġe a leithead na maiġne a curtar in mur, ocus tri traigṫe, a nairde in muir. Mad nocht aile, gebaiḋ side fri dam,
O'D. 2174. scuithe; ni dicead scuithe ar a dluiṫe, ocus [ni] diċet dam ar a hairde, ocus a daingne; da dornd dec dia hairde; tri buncair índi, bunċor for a híċtar, ocus araile inde ara medon, ocus araile fair iar nuachtur, co rugud cach cuaille iar nuachtur, ocus lamcur doib co nach urfaema ín talam; ocus tri beimeanna
O'D. 2175. fair da [f]arċa [a ceand. Ocus] traiġ co ruige deil nordan itir caċ da cuailli; tri duirnd fot ín
O'D. 2175. ċuaille uasa anamain, ocus cír draigain fair. Dia mbe fair [in ime seo], is dithfogail ar ceatra.

O'D. 2175. Is amne ciḋ in duirime itir [a] airde ocus [a]
O'D. 2175. dluithe, ocus [a] indrucus.

Cair—caide in ime indric? .i. comairceim caiti aichne na hime dligṫiġ itir. Mad cora, .i. dia cloich ṫis ocus cloch forru anuas. A leithead, .i. iar níchtur. A leithead, .i. iar nuachtur. A doimne, .i. iar nairdi. Iar nichtar, .i. iar nichtur ṫis. A leithead na maiġne, .i. ín maid i cuirter in mur iar níchtar a muir. A nairde in muir, .i. suas. Gebaiḋ side fri dam, scuithe, .i. gabaid side risin ndam ocus ris in scuiċi mbec. Ni dicead scuithe, .i. noco teit in ní scuchas na scota trit ar dluithi. Diċet dam ar a hairde, .i. noco teit in dam tairis ar áirde, .i. in da dornndec. A daingne, .i. nocu cumscaigenn se ar a daingne. Da dornd dec, .i. na tri buncor. Co rugud cach cuaille, .i. corab cruind. Iar nuachtur, .i. narab cleṫ rama. Lamcur doib, .i. a ċur doib

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[1] *Bunchor-bands.*—Bands of oziers interwoven between the standards, or stakes.

[2] *A mallet.*—This was for the purpose of flattening the head or point of the stake to prevent it from hurting cattle. See O'D. 1556.

[3] *Interweaving wickerwork.*—For ‘uasa anamain,’ of the text O'D. 2175 has ‘uas senamain.’

[4] ‘*Bunchor*’-*bands.*—There is something wrong here in the MS.

JUDGMENTS OF CO-TENANCY.

Question—What is the lawful fence?—If it be a stone wall, a wall of three stones, *its dimensions are* three feet in[a] thickness, twelve hands in height; if a trench, three feet in width and in depth; its width one foot below at the bottom, three feet is the breadth at the place where the wall is placed, and three feet is[b] the height of the wall. If it be a naked fence, it shall be a defence against oxen, *and* small cattle; the small cattle could not pass through it from its closeness, and an ox could not pass over it from its height and its firmness; twelve hands *are* its height; three 'bunchor'-bands[1] in it, a 'bunchor'-band at the bottom, another in the middle, and another at the top; in such wise that each stake is rounded at the top, and they are pushed down by the hand in order that the ground may receive them, and they are each struck on the head with three blows of a mallet.[2] *The length of* a foot as far as the joint of the big toe *is to be* between every two of the stakes; three hands the length of each stake, over the interweaving *wicker-work*, and a blackthorn crest upon it. If it be thus made,[c] it is a defence against the trespasses of cattle.

The 'duirime'-fence is similarly *formed* as to height, and closeness, and lawfulness.

[a] Ir. *Its.*

[b] Ir. *In.*

[c] Ir. *If this be upon the fence.*

Question—What is the lawful fence? i.e., I ask how is the lawful fence known. If a wall *of three stones*, i.e., two stones below and one stone over upon them. In thickness, i.e., at the bottom. In thickness, i.e., at the top. In depth, i.e., in height. At the bottom, i.e., below at the bottom. Is the breadth at the place *where the wall is placed*, i.e., of the place where the wall is placed at the bottom of the wall. The height of the wall, i.e., up. It shall be a defence against oxen, &c., i.e., it shall be a fence against the ox and the small cattle. The small cattle, &c., i.e., what crops the briars does not pass through it in consequence of its closeness. That an ox, &c., i.e., the ox does not go over it on account of its height, i.e., the twelve hands. Its firmness, i.e., it is not removed on account of its firmness. Twelve hands, i.e., the three 'bunchor'-bands.[3] Each stake is rounded at the top, i.e., that they be round. At the top, i.e., that they be not *like* oars. Pushed down by the hand, i.e., thrust by the

o laim, cona ḟírḟaemann se dul is in talmain. Traiġ co ruige deil nordan, .i. co dedal na ordan, .i. troig co rici in mad, .i. co bun in deiligenn in ordu sursin traigid, itir caċ da cuaille. Uasa anamain, .i. uasa figi min fo urcomair na ciri draigin. Cír draigain, .i. iar nuachtur. Dia mbe fair, .i. ma dia roib in denam sin air is ditoglaidi do na cethraib he. Is amne, .i. is amlaiḋ sin dono in duirime. Itir airde ocus dluithe, .i. in dang dornd dec, ocus co na dig in scuiche trit ar a dluithe. Indrucus, .i. cen sleġa, cen bera, cen benna.

Smacht peata chuirre ocus circe, ocus peata ois, ocus peata mictire, ocus peata seineoín, ocus peata sindaiġ. Tairgille nairaib; ite indsin a caithċe.

Smacht peata chuirre, .i. na huile en uile amuil na cerca, .i. leṫ smaċt forr na anmanna sa. Peata ois, .i. amuil na bu. Peata mictire, .i. amuil na cona cennda. Peata seineoin, .i. sebaicc. Tairgille nairaib, .i. do ċind tairgilli icaitir a smaċta, .i. gell toirithnech airi, gell da screpall; ocus is dar a cenn icṫair smaċta ina foglaib comaithcesa.

.i. Caiṫċe athide tra, coín, ocus geoid, ocus cearca, ocus peataḋa ċuirre, ocus beich; a dairgille aṁuil caċ ceaṫra dia mbe tairgille nairaib; muna be, a tairgille amuil caċ ceathra olceana.

Caiṫċe beach tra, id caithe fil do suiḋaib, ni tairgille.

Ciḋ fo dera son, aire ad liuamnaiġ, ocus ní fil taircealla forraib, ocus fobiṫ na nairleangead uile í malle, ar is do eirlímeann ann sin na tuille aithgin na smaċta la comiṫiu? .i. eirlím dia narirtar a nerad fris fo fechadsum tra caiṫaiḋa, co naċ urusa can hic a ċinaḋ. Dia caṫaiḋ fil doib, .i. caṫaid dia toraḋ.

Co heranar in caṫaiġ dia tora? Nin - aimser a coilltet na beich, do beir in fer aḋgair comruc forr in mil sin, co teid a láim gabala, ocus fo geallad iarum. Isi breaṫ is ċoir iarum ime, raind in meala doib i trí .i. trian do urgnam, ocus trian do beaċaib, ocus trian do tir. A trian in tíre rannṫar son a trí

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[1] *If he detains all that will be told him.*—This very obscure passage may possibly mean—"If he (the man injured by bees) retains in his mind all I shall tell him, in that case he may look after trespasses by bees in such manner that it will not be easy for the owner of the bees to escape paying him compensation." Per-

JUDGMENTS OF CO-TENANCY.

hand, so that it cannot but enter into the ground. A foot as far as the joint of the big toe, i.e., to the articulation of the big toe, i.e., a foot till it reaches the place, i.e., the point where the big toe separates from the foot, between every two stakes. Over the interweaving, i.e., over the fine interweaving *of oziers* over against the blackthorn crest. Blackthorn crest, i.e., at the top. If it be thus made, i.e., if it be of this make it is impregnable to the cattle. Similarly, i.e., the 'duirime'-fence is also thus *constructed*. As to height and closeness, i.e., the twelve hands, and so as that the small cattle could not pass through it on account of its closeness. Lawfulness, i.e., without spikes, without spears, without points.

As to the 'smacht'-fine for pet herons and hens, and pet deer, and pet wolves, and pet old birds, and pet foxes; there is an additional pledge upon them; this is for their trespasses.

The 'smacht'-fine for pet herons, i.e. all *kinds of* birds are *liable to fines* like the hens, i e. there is half 'smacht'-fine upon these animals. Pet deer, i.e. like the cows. Pet wolves, i.e. like the domestic dogs. Pet old birds, i.e. hawks. Additional pledge upon them, i.e. for addition their 'smacht'-fines are paid, i.e. there is a relieving pledge, a pledge of two 'screpalls;' and it is for this 'smacht'-fines are paid for their trespasses in co-occupancy.

As to the fines upon 'aithids,' *i.e.* dogs, and geese, and hens, and pet herons and bees; their additional pledge is the same as that of all animals, if they are liable to additional pledge; if not, their additional pledge is like that of cattle in general.

As for the trespasses of bees, it is trespass *fines* which are due for these, not additional pledge.

What is the reason of this, for they are swift, and there is no restraint upon them, and because they fly not all together, for it is for these 'airlim'-trespasses they do not incur restitution or 'smacht'-fine in the co-occupancy? i.e. 'airlim'-trespass, if he detains all that will be told him,[1] he shall now look to trespasses so that it is not easy to avoid paying for their damage. There are two fines for them, i.e. a fine of (*consisting of*) their produce.

How is the fine of their produce paid? Answer—At the time of smothering the bees, the man who sues makes a seizure of that honey, and it goes into the keeping of safe hands,[a] and it is afterwards submitted to award. The decision which is right *to make* afterwards concerning it is, to divide the honey between them into three parts, i.e. a third for attendance, and a third for the bees, and a third for the *owner of the* land. The third *allotted* for the land

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[a] Ir. *Hand of seizing.*

haps, it should be rendered, i.e., "an 'airlim'-trespass in which they delay so long as to commit damage, it is not easy to avoid paying for their damage."

JUDGMENTS OF CO-TENANCY.

.i. trian de don ḟir bed a beich fo bith ín tire ar a ndreangad, ín trian naile ranntar fon itir na ceiṫre comaiċaib beda nearsa do, .i. i mbeiṫ biad. Ma sciath lais ín tomas sin caċ bliaḋain fair, do beir saiċe caċ comaiċaiḋ bera nesom.

Trí cinaid do circ .i. foxal, ocus dortad, ocus corbad. Teora bairgena ferfuine cona nannlann; ocus ise meit in annlaind sin comtigat caċa bairgine dib, ocus a leṫat; ocus in tarbur is mo millid na ceile, is de ictur na bairgina sin is in cinaid do niat na cerca astig. Damna teora fertas beta fíu leṫscrepull ina cinaid i lis .i. maeṫslucad beċ, ocus lot roidi ocus coindi, ocus nocon amuil fogail comaiṫċes sin, aċt a mbiṫ amuil biṫbinċe. A trí cinaid .i. seċtar lis [.i. re hathaiḃ ocus muillenn]

* * * * * * * . . . .

ocus re daisib arbar; ocus ar seċt cercaib beos ata in ruth sin, ocus noco teit tairis. Na petada en uili amuil na cerca ima foglaib comaiṫcesa; teora * *

O'D. 2175. Na huili en amuil na cerca im a fogla coimcesa. Na tri c̄c̄ fogla a tiġ, foxal, ocus corbaḋ, ocus dortaḋ. A tri c̄c̄ fogla a lis, maeṫslucaḋ bech, ocus lot róiḋ ocus cainninne.

Teora bairgina ina fogail a tiġ, ocus leṫ screpall a lis no a lubgort; ocus méiṫ forra a seċtur lis, amuil na ruba eile No dono ċena, comu fiach biṫbinċi uaṫib is na bechaib ocus ís in aith. Is ann ata a neiric a dubramur romainn o na cercaib an inbaiḋ atá an coímét a deir dliġeḋ orra .i. coċaill ímpa, ocus muna beṫ, co mbiaḋ fiaċ duine caiṫi orra.

Na peta en uili amuil na cearca ima foglaib comaicesa. Teora bairgina a cinaig, no sect nanmunn dib a tiġ, ocus leṫ screpall

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[1] '*Roidh*'-*plants*.—*Vide* vol 2, p. 420 *n*, 421.

[2] *And mills*.—Twenty-five letters have been here cut away with part of the lower margin of E. 3, 5, page 3.

[3] *Of co-tenancy*.—The MS. E. 3, 5, is here defective. What follows up to the article on hound trespasses, p. 120, is supplied from O'D., 2176 *et seq.*, and C. 29. See Welsh Laws, p. 692, folio edition.

JUDGMENTS OF CO-TENANCY.

is itself divided into three parts, i.e. a third of it *is given* to the man who owns the bees on account of the land from which they come, the other two-thirds are divided between the four nearest neighbouring farms, i.e. where food (*for the bees*) is. If this distribution of it every year should be deemed tiresome, each nearest farm takes a swarm.

There are three trespasses of the hen, i.e., snatching away, spilling, and wasting. *The fine is* three cakes of man-baking with their condiment; and the amount of this condiment is *to equal* the thickness and breadth of each cake of them; and the corn which is more injured than the rest, it is of it these cakes *are made which* are paid for the trespass the hens commit in a house. *Three cakes for their trespass in the house.* The makings of three spindles (*full of wool,*) which are worth half a 'screpall' *is paid* for their trespasses in an enclosure *of a garden*, i.e. the soft swallowing of bees, and the injury of 'roidh'-plants[1], and garlic, and this is not as trespass in the co-occupancy, but is regarded as viciousness. Their three trespasses outside the enclosure, i.e. in kilns and mills[2] * * * and on corn-stacks; and on seven hens this addition is, and it does not go beyond them (*that number*). All the petbirds are as the hens as regards their trespasses of co-tenancy;[3] three * * *

All the birds are as the hens, with respect to their trespasses in the co-occupancy. The three hen-trespasses in a house are snatching away, wasting, and spilling. The three hen-trespasses in an enclosure are soft swallowing of bees, and injuring 'roidh'-plants and garlic.

Three cakes *is the fine* for their trespass in a house, and half a 'screpall' in an enclosure or herb-garden; and 'the sacks' *are charged* upon them outside the enclosure, like other trespassers. Or, indeed, *according to others*, it is fine for thievishness[4] that is paid for *their swallowing* the bees, and for *trespasses in* the kiln. Where the 'eric'-fine which we have mentioned above is paid for the hens is when the restraint which the law orders is upon them, i.e. boots of rags upon them, and if they be not *upon them*, a fine for man-trespass shall be upon them.

All pet birds are like the hens with respect to their trespasses in[a] co-tenancy. Three cakes *is the fine* for the trespass of every seven birds of them *committed* in a house, and half a 'screpall' in an

[a] Ir. *Of.*

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[4] *Thievishness.*—The 'bithbinche' of an animal is his acquired habit of injuring or trespassing.

JUDGMENTS OF CO-TENANCY.

a liss, ocus leṫ meich a seċtar liss. Tar lan íme ata sin, ocus a leṫ tar leṫ íme, ocus cin ní mas cín íme itir. Cu cochluib umpu sín; no dono, ro cuir a mbaile as ro bu cínnti leis a nemṫiaċtain ass; fiach duine [caiṫe] imurro, forru muna fuilitt coċla umpu, no munar la iat conair ass ro bu ċindti leis a nemṫiaċtain.

Teora bairgina ferḟuine co na nannlunn bre̅saín caċa raithi ar sé bairġína banfuine, tri bairgina coirci and, ocus an cétna deorna; uair is amlaiḋ ícṫar meiċ ín comaiṫcesa, leṫ do ċoirci and ocus leṫ deornain; ocus ní cutrumaḋ a loġ, uair in toċtmaḋ rann oċtmoġat do pinginn loġ na tri mbairġín coirce, ocus in seċtmaḋ rann sescat do pingind ar na tri bairgina eornaḋ. Ocus tabuir na sé bairġina sin ar trí bairġína ferfuine, feorling co leṫ ocus tri ranna dfeorling ocus dechmaḋ ín dechmaiḋ dfeorling loġ ann, no na trí mbairġin isin. Cín do niatt na cearca is in tiġ ata sin.

Damnad tri fertus beda fíu leṫ screpall ína cinaid a lis, leṫ meich ina cina[iḋ] a seċtar lis.

A trí cinaiḋ a tiġ, foxal, ocus dorta ocus corbu. A trí fogla a lis, maeṫslucuḋ beaċ, ocus lot róiḋ ocus coindenn, no fri beochu ocus lus ocus cruacha. A tri foġlaḋ a seċtar lis, .i. re háthaib ocus muillenn ocus re dairib arba; no fri sabull ocus fri háṫuib ocus fri gortuib; no dono, coná bu fogal comaiṫċesa doibsium na fogla sin, aċt a mbeṫ amuil biṫbingi, ocus co seċt cerca ata in ruth sin. Miach ar ċirc na bi haimritt, cumu leṫ meiċ ar ċaileċ; cuma cín circi fri lubgort ocus beachaib.

C. 29. [Cerca; a tairgille amail caċ ceṫra, air ni airgillad tar innraic ocus imbe nindraic fris; ocus cuad da ordlaċ dec, do grán, is smaċt fil doib fri caċ nairlim; ocus a coimméd ar na diccsed tar indraic sin, imdibe a nedaiġ ocus urcomla forraib.]

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[1] *Enclosure.*—'Lis' means here, the enclosure of a garden where bees are kept.

[2] *Condiment.*—'Annlann' is any thing taken with bread, such as butter, sauce, bacon. &c. Butter and bacon are the kinds of 'annlann' usually referred to in these laws.

JUDGMENTS OF CO-TENANCY.

enclosure,[1] and half a sack for *trespass* outside an enclosure. This is *when they have passed* over a full fence, and it is half *for trespass* over a half fence, and nothing if there be no fence at all. This is when they have boots of rags upon them; or, indeed, *according to others*, he (*the owner*) put them in a place from which he felt certain they could not come; but fine for man-trespass lies against them unless rag-boots be upon them, or unless they have been sent by a way through which he was sure they could not come.[a]

[a] Ir. *Their non-coming.*

Three cakes of man-baking with their condiment[2] of butter or bacon every quarter of a year, are the equivalent for six cakes of woman-baking, which consist of three cakes of oats, and the same *number* of barley; for the manner in which the sacks of the co-tenancy are paid, is one-half in oats and one-half in barley; and their price is not equal, for the eighty-eighth part of a 'pinginn' is the price of the three cakes of oats, and the sixty-seventh part of a 'pinginn' is that of the three cakes of barley. And taking these six cakes as equivalent to three cakes of man-baking, their price will amount to a farthing and a half, and three parts of a farthing, and the tenth of the tenth of a farthing is their price, or that of these three cakes. This is *for the* trespass which the hens commit in the house.

The makings of three spindles which are worth half a 'screpall' *are due* for their trespasses in an enclosure, half a sack for their trespass outside an enclosure.

Their three trespasses in a house *are* snatching away, spilling and wasting.[3] Their three trespasses in an enclosure *are* soft swallowing of bees, and the injuring of 'roidh'-plants and garlic, or of bees, herbs, and *corn* ricks. Their three trespasses outside the enclosure, i.e., in kilns and mills and stacks of corn; or in a barn, in kilns and fields; or, *according to others*, these trespasses are not trespasses of the co-tenancy, but they are to be considered thieves,[b] and this *fine* runs[c] to seven hens. A sack for a hen that is not barren, and hence half a sack for a cock; equal is the *fine for* trespass of the hen in an herb-garden and for *the injury which she does to* bees.

[b] Ir. *As thievishness.*

[c] Ir. *This run is upon seven hens.*

As to hens: their additional pledge-*fine is* like *that of* every *kind of* cattle, for they shall not pass into a lawful place over a lawful fence; and a cup of twelve inches, of grain, is the 'smacht'-fine which is *paid* for them for every 'airlim'-trespass; and this when they are guarded so as that they may not pass over a lawful *fence*, their wings being clipped and spancels upon them.

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[3] *Wasting.*—'Corb' is glossed 'caiteaṁ,' spending, wasting, or consuming 'Corbad' (another form of the word) means also, dirtying, defiling.

Sic.

Na coin allta, ocus na sinnaiġ, ocus na brain, no na bruic ocus na doain amuil na conu cenndu um a ḟoglaib comaithcera. Na h uiġ allta aṁuil na haiġi ceannda um a foġla ḃ comaiṫcera. Na muca allta da .mbetís ar cumus neiċ, amuil na muca ceannda.

Na fiaḃu so amuil na ceannda is cosmuil friu um smaċt; no is leṫ fiach uaduib na nanmann is cosmuil friu, amail is leṫ fiach indtib sin.

Teora bairġina a smaċt a tiġ; cu ruigi seċt leṫscripuill smaċt a lis, ocus meich a seċtar lis.

Gne eile. In corr ocus in senen, amuiċ atait a cinaid nama. Riṫ in comaiṫcera cu ruice tri seċt nanmanda, cid ile sealba beṫ ann, acht gu rabuid a comíngaire cona mbeṫ ac denum na fogla; no riṫ for caċ seilb muna fuilit a comíngaire.

Cair—ciara cathach fo fich cu fri tir ín comícaid? beirid chin conloin.

Cid fil a fogain? Buaíne ín conluain i talam, ocus talam dar a eise; ocus a teora heimeide in chonluain, a haimeid do ím, ocus a haimeid do gruth, ocus a heimeid do taes ina dire. Toisceadh caċ aesdrecht cona chinntaib do neach forairead, itir dire ocus aithgin.

Smachta comicheara caide colanD a feich, ar ni bí
O'D. 2178. smacht acht la colaind a feich? Fer i taib no [in] airceand íte coland a feich.

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[1] *Ownerships.*—A 'seilbh' means a distinct possession, the stock of a particular person.

[2] *Question.*—The text in E. 3, 5, is defective here.

[3] *The feeding.*—The term "conlon," or 'conluan,' means "dogs' excrement," and is so glossed in C. 2783, where this very paragraph is quoted, but in somewhat different language, thus:—"Cair—cisi caiti fo fiċ in cu fri tir in comaiṫcera, cid bere cin conloin." It is evident, however, from the gloss on the passage in the text, that the author of that gloss understood it as "hound's

JUDG-MENTS OF CO-TEN-ANCY.

The wild dogs, and the foxes, or the badgers, and the 'togans,' *are* as the tame dogs with respect to their trespasses in the co-tenancy. The wild fawns *are* like the tame calves with respect to their trespasses in the co-tenancy. The wild swine, if they should be in one's power, *are* like the tame swine.

The *wild* deer *are* like the tame deer which are like them, with respect to 'smacht'-fine; or, *according to others*, it is half the fine of the animals which are like them, *that is paid* for them, as it is half fine *that is obtained* for them.

Three cakes *is* their 'smacht'-fine *for trespass* in a house; their 'smacht'-fine *for trespass* in an enclosure may amount to seven half 'screpalls,' and sacks *are due* for *trespass* outside the enclosure.

Another version. *As to* the heron and the hawk, their trespasses are outside only. *And* the fine in the *case of* co-occupancy extends[a] as far as three times seven animals, even though there should be several distinct ownerships,[1] provided that they are under common herding at the time of committing the trespass; or it extends to each distinct ownership if they are not under common herding.

Question[2]—What trespass does a hound commit on the land of a co-tenant? The feeding[3] of him involves[b] a liability for his trespass.

What is *done* in this case?—To take away the hound's ordure from the land, and *settle the* land after it; and three times the bulk of the ordure is *to be paid* as[c] its 'dire'-fine, its bulk of butter, and its bulk of curds, and its bulk of dough. The support of all pet animals and their trespasses fall on the person who owns them, both as regards 'dire'-fine and compensation.

In the 'smacht'-fines of co-tenancy, what is the substance of the liability[d] incurred by them (*i.e.*, *on their account*), for there is no 'smacht'-fine unless there be a substantial liability.[d] *The destruction of the* grass at the side or at the end *of the field* is the substance of the liability.[d]

[a] Ir. *The run.*

[b] Ir. *Bears.*

[c] Ir. *In.*

[d] Ir. *Body of the debt.*

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food," taking 'lon' to mean as it does in the modern language, 'food,' 'provision,' &c. "Cıḋ bẹꞃe cın conloın," as quoted in the gloss C. 2783, means "who bears (or shall bear) the trespass of dogs' ordure," which is probably the true meaning of the clause in the text, though the glossarist understood it otherwise.

JUDGMENTS OF CO-TENANCY.

Cair, .i. comaircim cia cin comaitċesa fuachtnaiges in cu ro ferann in comaitchis. Beirid chin, .i. beirid cinta in con in ti tucustar lon bid don ċoin.

.i. Caiṫe con .i. a ceaċair, .i. duinecaiṫe, ocus a urbach ceaṫra, fobaċ naitreibe, ocus conlon i tir. Cair—cidh i sogain? Buaine in conluain sin i talam ocus fot ind dara eise, ocus boċor fair co ceann mis. In cinaid aile o tá in cet chinaid .i. aithgin ineiċ ro bronna in cet cín, isin tanisde, a bas ind.

Cidh fo dera son, ar ní teit ceaċair a cét ċin?

O'D. 2177-8.

[Cé ro ṫisaċt in cu ar fearand in comaiṫiġ noċan fuil ní uaḋ aċt muna dernnaḋ conluan fair; ocus ma do roine, in tinaḋ i ndernnaiḋ do tochuilt, ocus úir do buain ass in airett is léir balath in conluain, ocus úir mín a comaiginta ind.

Isseḋ dlegar buain in conlóin a talmuin gein do gabur a suġ ann, ocus a sonnaḋ ocus a sálaḋ, ocus úir mín a comaiginta ar son aithgina. Is derusc sláinti sin; aċt co ndichet da each um carputt hi corruitt and ocus congleṫet and, ocus conaidglen a fiacla ní don feoir oga gleiṫ. Ocus a tri himett in ċacha ar son aithgina, ocus a mét dim, ocus a mét do ṫaes, ocus a mét do gruth; ocus in ní dib sin na faġtar, geibid greim in .ii. taréisi. Ocus mad i fiadnaisi fir bunaḋ do néċ in cu conluan ar in fer, co mbeṫ fiaċ duinecaiṫi uaḋ and.]

Cid fil a sogain? .i. cid fil isin níadaisin, isin fogail comaithċesa. Buaine in conluain, .i. buain ċaca in con as in talmain. Ocus talam dar a eise, .i. talam aili dara eisi, .i. a sonnad ocus a salad. A teora heimeide, .i. in conloin ind ar son dire. Ina dire, .i. ar son smaċta. Toirscead caċ aesdrecht .i. tairsced caċ areċta ro uairi deiside cona dernat fogail. Cona chinntaib, .i. dic, dia

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[1] *Four.*—In C. 29, the reading is cetair, four; which seems to be the correct one. 'Ceaċair' usually means 'dirt, filth,' a sense which the context does not appear to warrant here.

[2] *Four times.*—The original is defective here. Taking 'ceaṫair', 'four' or 'a quadruped' to be the correct reading, the sentence may mean, "What is the reason of this, for a quadruped does not go *in payment* for its first crime?" Taking

JUDGMENTS OF CO-TENANCY.

Question, i.e., I ask what trespass of co-tenancy does the hound commit in the neighbour's land? Involves a liability for his trespass, i.e., the person who has given store of food to the hound is accountable for the trespasses of the hound.

That is, the trespasses of hounds, i.e., four[1], i.e., man-trespass, and mangling of cattle, breaking of dwellings, and committing nuisances on land. Question—What *is done* in this *latter case?*—To take that ordure out of the ground, and *place* a sod thereon afterwards, and cowdung *is to be left* over it to the end of a month. *As to* the other trespasses from the first trespass *out*, i.e. compensation is to be made for the thing injured by the first trespass, for the second, the life *of the hound* is taken.[a]

[a] Ir. *Its death in the case.*

What is the reason of this, for he does not repeat the first trespass four times?[2]

Though the hound should come on the neighbour's land there is no fine[b] upon him (*the dog*), unless he has committed nuisance upon it; and if he has, the spot on which he has done it, is to be dug up, and the clay to be removed therefrom as long as the smell of the ordure is perceived, and fine clay of the same nature *with that taken away is to be placed* thereon.

[b] Ir. *Nothing.*

What is required by law is, to remove the dog's ordure out of the ground as far as its juice is found, and it (*the ground*) is to be pressed and stamped upon with the heel, and fine clay of the same nature *is to be put there* as compensation. This is the test of reparation; that two horses of a chariot in yoke come there and graze there, and if no part of the *sod of* grass stick to their teeth in grazing on it *the reparation is complete.* And three times the size of the ordure *is due* for compensation, and[3] its size of butter, and its size of dough, and its size of curds; and the part of them that is not obtained in the one is to be claimed in the other afterwards.[4] And if it be in the presence of the owner that the hound has committed nuisance on the grass, a fine for man-trespass shall be paid by him for it.

What is *done* in this case? What is *the reparation* in this case, for the damage in the co-occupancy? To take away the hound's ordure, i.e. to take away the hound's excrement out of the ground. And *settle* the land after it, i.e. to put other earth there after it, i.e. to press it and to trample it with the heel. Three times the bulk, i.e. of the hound's excrement *is to be given* for it as 'dire'-fine. As its 'dire'-fine, i.e. as 'smacht'-fine. The support of all pet animals, i.e. every valued toy-animal is restrained by it that they commit not trespass. And their trespasses, i.e. to pay, *i.e.* if they have committed

'ceaċaıṗ to mean 'dirt,' or 'excrement,' the meaning would be for "excrement does not go as a first trespass."

[3] The 'ocuṗ' in the original seems superfluous, unless it is meant for .ı.

[4] *Afterwards.*—That is, if it be not obtained in butter, it shall be given in dough, &c.

ndernat cinaid. Do neach foraisead, .i. do neoch fuachtnaigit. Itir dire, .i. na teora aimeiti. Aithgin, .i. in ḟeoir.

Smachta comicheasa, .i. in ní smaċtaigter is in athechuscumaide, na smaċta .i. meich. Caide coland a feich, .i. aithgin in neiċ millter ann. Ar ni bí smaċt, .i. uair noco bi in ní smaċtaigter ann aċt la taeb aithgina colla na fiaċ .i. meich. Fer i taib, .i. in fata. No airceand, .i. in gairit. Ite coland a feich, .i. a aithgin in inbaid is e ro loited and.

Mbrugricht, cia ro neiridar? Raċt mbroga son, ar na horr neach ḃrog a comícaid, ar ní bia fiḋ a tíre, ar naċ orba, ar nach ara, ar naċ aitreaba; ara tairgealla cach ara ceaṫra for cach naile, for cach tairsce, for caċ ruire.

Mbrugricht, .i. recht fri ḃruig .i. ḃruig, no is níd coir dirgetu. Cia ro neiridar? .i. cid ara raiter, no cid ara naisneidter eseic. Raċt mbroga, .i. diriataide in ferainn in ní hisin. Ar na horr neach brog, .i. itir fer ocus arbur, .i. ar na ra foirrgea nech ferann a comaithig. Ar ní bia fiḋ a tíre, .i. ar na boinge fid a ferainn. Ar naċ orba, .i. airbeda na naileda .i. tige and. Ar nach ara, .i. ar na derna a ar. Ar naċ aitreba, .i. a tigi, no aiṫe, no á maille Ara tairgealla cach .i. co tuca caċ gell toirriṫneċ fri cach cinaid do niat a cethra im dul tar in aile. For cach tairsce, .i. fris caċ tarrascae, fri caċ cae do niat tairis. For caċ ruire, .i. for cach rorith do níat.

.1. Atait teora sealba na beiread ba dona lib caiṫaib seo, .i. ruḋ, ocus roilbe, ocus foaċ tuaiṫi. Is forgaib í cinaiḋ inn sin, uair isa nírind do caċ ceaṫra olceana.

Teora caiṫe fil do ceaṫra; ní coibeis asseanadar, .i. caiṫe tar airbe, ocus caiṫe tairsce, ocus caiṫi ruirida. Maḋ caiṫe tar airbe, ocus bíd an íme itir caċ da comiṫach, is leṫ caṫaiḋ

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[1] *Two 'screpalls.'*—That is, to secure the observance of the common usage. This pledge was hung upon a rack in the neighbour's house at the foot of his bed. Vid. p. 75, *ante*.

JUDGMENTS OF CO-TENANCY.

trespass. To the person who owns them, i.e. to the person to whom they have done damage. Both as regards 'dire'-fine, i.e. the three equal bulks. Compensation, i.e. of the grass.

The 'smacht'-fines of co-tenancy, i.e. the thing which is commanded in the common tenancy, the 'smacht'-fines, i.e. sacks. What is the substance of the liability, i.e. compensation for the thing which is damaged. For there is no 'smacht'-fine, &c., i.e. for the thing which is commanded for it is only for the sake of compensation for the substance of the liability, i.e. sacks. Grass at the side, i.e. lengthwise. Or at the end i.e. shortwise, *or in breadth.* Is the substance of the liability, i.e. compensation when it is it that has been injured.

Farm-law, why so called? That is the law of farms, that no one may injure the farm of his neighbour, that he may not cut down the wood of his land, that he break not, that he may not plough it, that he may not inhabit it; for every man shall give additional pledge for his cattle in respect of every *passing over a* fence, for every breach, for every rushing over.

Farm-law, i.e. the law for the farm, i.e. the farm, or the regulations which are required for it. Why so called? i.e. why is it so called or denominated? The law of farms, i.e. that is, this is the regulations of the land. That no one may injure the farm *of his neighbour*, i.e. either in its grass or corn, i.e. that no one may injure the land of his neighbour. That he may not cut down the wood of his land, i.e. that he may not cut the wood of his land. That he break not, i.e. the stakes or pales, i.e. of a house there. That he may not plough it, i.e. that he may not till it. That he may not inhabit it, i.e. *that he may not fix upon it* his houses, his kilns, or his mills. For every man shall give an additional pledge, i.e. that every one may give a relieving pledge (*a pledge worth two 'screpalls'*[1] *to insure the payment of the fines imposed*) for every trespass which his cattle commit by going over the fence. For every breach, i.e. for every crossway, for every passage which they make over it. For every rushing over, i.e. for every great running over *it* which they make.

That is, there are three lands in which cows are not fined for these trespasses, viz., *a trespass in* a wood, *a trespass in* a moor, and a 'foach-tuaithe'-trespass. Their trespass is condoned here, for every kind of cattle may be in a wild place.

There are three trespasses of cattle; they are not equally paid for, viz., a trespass over a palisade, and a trespass by a breach, and a trespass by rushing over. If it be trespass over a palisade, and that there is a bad[2] fence between every two neighbours, it is

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[2] *Bad.*—For 'an' in the Irish of this line, and also of the next line, C. 30, reads 'ain.'

JUDGMENTS OF CO-TENANCY.

fil and, ar conlui an animé ín caṫaiġ. Marob ar aile ín fir bed a ai do digsid, is oḋcaṫaiġ fil and, ar ní fogna laím a laim muna derna ar seirc, no trí omain, no tri tigernus. Is de asrubrad; ínpia résiu adgara coimdigter ina eiġe.

Cair—caide tairsce? Taigacht tar seilb no tar a di. Tarrsce dona, dul tar rod, dul tar abind na be snam doib. Tairrsce tar fag neisearta.

Cáir, .i. comaircim caiti in tarṫus cae .i. cae tairis. Taigacht, .i. t[aiġacht] dar da aircenn, no dar ceiṫri airċeind. Tar seilb .i. dar ferunn in boaire .i. teora foirge ocus urċar flescaiḋ. No tar a di, .i. tar da ferand. Dul tar rod, .i. leṫfiach tairsce i ndul tar leṫclad in roit .i. co leṫ ime .i. fri hime amuich. Dul tar abind, .i. ar greim leṫ ime inní tar a necadar ann. Na be snam doib, .i. mad snam doib is fiach airlime ind. Tairrsce tar fag neisearta, .i. tar ferann ín ti eirges as a firt .i. in teisert. Tar fag, .i. tar fic .i. tir.

.1. Atait dono tri tairrsce .i. tairsce tar rod, ocus tairsce tar abind, ocus tairrsce tar comiṫaċ. Mad tairsce tar aibínd domain na be treoir, is ógcaṫaiġ fil ann, arus gleiṫ dar índric inn sin. Mad tairrsce tar berna tar rod, do tuit ceathruímṫe srisin for talmain, ocus asseanar an aill, arus leṫ do fallaib, an aill do doebdadaib; a leṫ na faille ranntar ataru í nde. Maḋ tairrsce tar comiṫac airm í mbiaḋ da treabar ím edtreaḃar, isseḋ in cetna dono; rannaid a faill atarru ín dag íme; ní legad íme forra nedtreabar. Is ruiriu iarmota sin; ocus is caṫaiġ na friṫgaib fola, ar ní dlegar imuaim folad

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[1] *Ina eighe.*—This phrase may possibly mean, "What exists before it is prohibited is maintained afterwards."

[2] *Aircenn.*—A piece of land containing 7,776 feet, or half a 'tir-cumhaile.'

[3] *Half fence.*—In O'D., 2179—the gloss runs thus, "Dul tar rott .i. eiric tairsce tar leṫ íme i ndul tar leath claḋ in roid, &c. Going over a road, i.e. the 'eric'-fine for a breach over a half fence is *due* for going over one wall of the road. Going over a river which they have not to swim, i.e. the 'eric'-fine of a breach over a half fence is *due* for this also. What makes the breach here the same as passing over land is, the going across the road which has only half a fence, or across a river without swimming, and there is full

JUDG-MENTS OF CO-TENANCY.

estimated at half trespass, for the bad fence lessens the trespass. If they have come over the fence of the man whose property they are, it is full trespass, for " Hand in hand does not profit, unless it has been done for love, or through fear, or through lordship." It is from it was said : "Inpia resiu adgara coimdigther ina eighe."[1]

Question—What is a breach? Passing over one land, or over two. A breach is also going across a road, going across a river which they (*the cattle*) do not swim. A breach *is going* over the land of a deserter.

Question, i.e. I ask what is 'tarthus-cae', i.e. the way over it. Passing over, i.e. passing over two 'aircenn'-lands,[2] or over four 'aircenn'-lands. Over one land, i.e. over the land of the 'Boaire'-chief, i.e. three 'forrach'-measures, and the cast of a rod. Or over two, i.e. over two lands. Going across a road, i.e. half the fine for breach in going over one wall of the road, i.e. with half a fence, i.e. with a fence outside. Going across a river, i.e. what they have crossed in this case founds a claim of *fine equal to that of* half fence.[3] Which they do not swim, i.e. if they have to swim it, it is (*amounts to*) fine for 'airlim'-trespass. A breach over the land of a fugitive, i.e. over the land of the person who has gone away from his land, i.e. the deserter. Over the land, i.e. over 'fich,' i.e. land.

Now, there are three kinds of breach, viz., a breach across a road, and a breach across a river, and a breach across a neighbourhood.[4] If it be a breach across a deep river without guiding, there is full fine for it, for it is grazing beyond what is lawful in that case. If it be a breach over a gap or across a road, the one-fourth of it (*the fine*) falls to the ground, and the rest is paid, for half is due for the neglects, the other for the claimants ; the half for the neglect is divided between them in two. If it be a breach over a neighbourhood *of co-tenants* where there are two residents *and* one non-resident, it is the same thing : they divide the neglect between them, of the good fence. No fence is charged upon the non-resident. It is 'ruiriu'-trespass afterwards ; and it is a trespass that does

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fence to the grass into which they go, or a half fence, for the river or the road is equal to half fence."

Dr. O'Donovan observes here.—"This gloss is also defective, and should run thus :—Crossing over a road which has only a half fence, to commit trespass, or over a shallow stream, which the animals can cross without swimming, is equal to a breach over a half fence ; but if the river be so deep as not to be crossed without swimming, or the wall of the road a perfect fence, they are equal to full fence, and the breach over them is accordingly estimated."

[4] *A neighbourhood.*—That is, a settlement of co-occupants, or co-tenants.

JUDGMENTS OF CO-TENANCY.

do comiteaċ fri ní bes lia oċṫur .i. na ceiṫri comiṫaiġ íma biad, ocus na ceitri ecomiṫaiġ ada neasam doibside.

Os airm i mbiad da comarba treabar ím easeart, cid do gnitear fri heiseart? Gaibead imme co nímcua, os muna be treabad inforais lais, gaibtear a fine comogais do co nímcuaad eire, no contardad ferdilse co ceann mbliadna. Mad ferdilse do bera a fine, ímfean ceachtar in da comarba oġníme, ocus do berad comairеam índ, ocus do airgealla cach dia raile as iarum.

Os ma do ti eiséart co treabaire lais a neċtair, teid do chum a fíne, folongad co ceand mbliadna, ocus ní dia treabaire forrig ina tir, ocus is dilеas do uile.

Os airm, .i. os ar acus, ocas airm baile ndinad, i mbiat da coimetaid orba trebar i ferand in ti eirges as a firt, imon esert .i. ite da esert deirge a methus, ocus eisert tascnam meṫais. Cid do gnitear, .i. cret do niter ris in eisert. Fri heiseart, .i. as a firt. Gaibead imme, .i. gabair athgabail aire co nderna ime emcoir, .i. cora ime in cae is coitechta do. Os muna be, .i. mana roib treabaire inarus aici. Gaibtear a fine, .i. gabar athgabail don ti is comfocus do don fine. Co nímcuaad, .i. co ndernat ime emċoir. No contardad ferdilse, .i. co tucat dilsi in feoir ar fochraic, .i. in fine. Co ceann mbliadna, .i. ar re na fochraca. Mad ferdilse, .i. ma dilsi in ferainn do berat in fine ar foċraic do caiṫem in feoir. Imfean ceachtar in da comarba, .i. ímḋ .i. uirimed cechtarde in da coimetaid orba fuil íme, co roib íme comlan ann. Do berad, .i. do berat airem cumaide ind im cutruma. Do airgealla, .i. do beir

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[1] *Nearest to them.* This commentary is exceedingly obscure and difficult.

[2] *A deserter.* 'Esert,' is a landless man, a fugitive, or evader of his duties.

JUDGMENTS OF CO-TENANCY.

not involve reciprocal duties as regards goods, for reciprocity of goods is not enforced by law in the case of neighbours exceeding eight persons, viz., the four co-tenants immediately round about, and the four non-co-tenants, who are nearest to them.[1]

And in a place where there are two solvent landholders, and a deserter,[2] what is *to be* done with the deserter? Let him be distrained until he fences (*makes his fence*), and if he has not a habitable residence, let the next of kin to him of his family be distrained until they make the fence for him, or give up the right of the grass to the end of a year. If it be that the family give up the right of the grass, then let each of the two 'coarbs' *of the families occupying the adjoining lands* erect a perfect fence, and they shall bring equal stock upon it (*the land*), and afterwards each shall give the additional pledge to the other.

And if the deserter come outside having with him his cattle-farmer's requisites, he goes to his family, *and* they sustain him to the end of a year, and the part of his farmer's requisites which arrive in the land are all his property.

And in a place, i.e., 'os,' for 'acus' (and), and 'airm,' means place or locality, *i.e.*, where there are two solvent landholders in the land of the person who goes away from his land, or the deserter, i.e., there are two *kinds of* deserters, *a deserter* who deserts his land, and a deserter who evades responsibilities. What is done, i.e., what is done to the deserter. A deserter, i.e., 'as' (out of), 'a firt' (his land). Let him be distrained, i.e., let a distress be made upon him, *and let his goods be distrained*, until he makes a proper fence, i.e., until the fence is in the way that is legitimate for it *to be*. And if he has not, &c., i.e., if he has not a habitable residence. Let his next of kin be distrained, i.e., let seizure be made upon the next of kin to him of the family. Until they make the fence, i.e., until they make the legitimate fence. Or give up the right of the grass *as the rent*, i.e., the family. To the end of a year, i.e., for the term of the hire. If *it be that the family give up* the right of the grass, i.e., if it be the forfeiture of the land that the family consent to[a] for the hire to consume the grass. Let each of the two 'coarbs' erect a perfect fence, i.e., they fence, i.e., both of the two landholders who are adjoining it, shall make a fence, so that there shall be a perfect fence there. Shall bring equal stock, i.e., of cattle, i.e., they shall bring a common stock there *into the deserter's land* in equal proportions. Shall give the additional pledge, i.e., each of them gives the relieving

[a] Ir. *Circ.*

JUDGMENTS OF CO-TENANCY. cach dib gell toiriṫnech da ceile, as iaram, .i. gell da screpall. Comaiream, .i. do indillib. Dia raile, .i. a tir na eiserta.

Os ma do ti eisearṫ, .i. os ar acus, ocus ma dia ti in teisert amuich dia nechdair cos aní is trebar do leis do ċruḃ. Teid dochum a fine, .i. teiṫ ar ṫic, tic do cum a fine bodéin. Forlongad co ceand mbliadna, .i. imfoilngid a fine he ar fochraic co cenn mbliadna, .i. ar in re bis in fearann ar fochruic, .i. dfeor ocus duisce. O'D. 2183. Ní dia treabaire, .i. [do dentaib] do airbedaib ocus do ailedaib. Forrig, .i. airgiter ara ċind in ferann. Is dilеas do uile, .i. don esert; ocus ar re na fochreca táinic amuich he ann sin, ocus in foċraic O'D. 2183 don fine, ocus na denta, [na harbunna ocus na tige], don esert.

.i. In tan biad ḋa treabar im edtreabar, gaibead eire, dia nairsead; muna airsead, gaibead ar fine commicuad friu tir a mbraṫar, ocus co dardad dilsi fer gleithe co ceann mbliadna, ocus dilsi caċ leṫ eatarba fri híme, ocus adaragad in da comiṫaċ iarum amuil bid leo fadesin, ocus tairgealla caċ fri raile. A smaċtatra, id gealla dofed, id saiġe; .i. geall fri híme, rama (.i. a tir buic) fri clais, screpall a fíu, ocus a leagad aen feaċt; soc fri coraiġ, screpall a fiu, ocus a leagaḋ fa tri; bíail fri duir-ime, .i. a leagaḋ fa di, go ra fíu screpall; figba fri felmag, no fris in naile, screrall a fíu, ocus a leagad fa dí, no siṫaile no beoleagaḋ. Nascaġter na smaċta so iaram.

O'D. 2183. [In teisert is he a aiṫne: duine fand bis itir in da comorba tre na trébuiri; gabur athgabail de mad tait seoit aice; fogellta ocus bleṫ di dul ina ceand, ocus ní ṫeit lobu. Muna fuilit seoit aigi, aṫgabail do gabail dia inbleogain, ocus foġeilt ocus bleṫ do dul ina cenn, ocus ní ṫheit lobu.

Ma tainíc in tesert amuiġ iar sin, tabruit a fine fearand do re ré na foċreaca, ocus berait fine in ḟochraic, ocus ní dia trebuiri foríc ar a ċind do breiṫ don eissert. Maḋ ta ferand acon fine, ocus ní tabruit dosum, a fochruic do breṫ don luċt amach, ocus iní na ro dilsiġ dligeḋ do na dentaiḃ, cennaigit

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[1] *To each other.*—The text is very defective here.

[2] *Fused.*—'Leagadh' means, literally, 'melting.' The instruments mentioned here were to be prepared by fusing the metal, the harder the material to be operated on, the more numerous were the fusions of the metal forming the implement, and consequently the more valuable the instrument.

[3] *Expense of tending.*—The wages paid to shepherds, or caretakers of the cattle.

pledge to the other out of it afterwards, i.e., a pledge of *the value* of two 'screpalls.' Equal stock, i.e. of cattle. To the other, i.e. out of the land of the deserter.

And if the deserter come, i.e., 'os,' for 'acus,' (and), and if the deserter come outside *the land* with the number of cattle which renders him solvent. He goes to his family, i.e., 'he goes,' for 'he comes,' *i.e.* he comes to his own family. *And* they sustain him to the end of a year, i.e., his family supports him for pay to the end of a year, i.e., the term during which the land is *let* for hire, i.e., with grass and water. The part of his farmer's requisites, i.e., of erections, of stakes and of poles. Which arrive, i.e., which are required of him in the land. Are all his property, i.e., of the deserter; and after the term of the hire he came outside in this case, and the hire *is given* to the family, and the erections, the corn crops and the houses, *go* to the deserter.

When there are two men fulfilling their duty, and one who does not fulfil his duty, let them distrain him, if he has property; if he has not property, let them distrain his family until they fence their brother's land, or[a] until they give the right of the grazing to the end of a year, and the right of every half separation respecting a fence, and the two co-tenants afterwards proceed as if it (*the land*) was their own, and they deliver pledges to each other.[1] The 'smacht'-fines now, *which they pay*, are the pledges which precede, i.e., they are these, i.e., a pledge for fence *stakes*, a spade, i.e., in soft land, for a trench, a 'screpall' is its worth, and it is to be fused[2] (*melted*) once; a 'soc' for a stone wall, a 'screpall' is its worth, and it is to be melted thrice; a bill-hook for a hard fence, i.e., it is to be fused (*melted*) twice, so that it is worth a 'screpall'; a wood axe for a 'felma'-fence, or for a palisade, its worth is a 'screpall,' and it is to be melted twice, or *to undergo* long-heating, or live-melting *is to take place*. These 'smacht' fines are made binding afterwards.

[a] Ir. *And.*

The deserter is thus known: a weak person, who is situated between the two 'coarbs' that do their duty; he is distrained if he has 'seds;' the grazing and the expense of tending[3] shall be added, but forfeiture shall not be[a] *allowed*. If he has not 'seds,' distraint shall be made on his next of kin, and expense of grazing and tending shall be added, but forfeiture shall not.

[a] Ir. *Goes not.*

If the deserter has come *from* outside *into the territory* after this, his family shall give him land during the term of the hire, and the family shall obtain the hire, and the part of his farm-buildings which he may have found on his coming back shall be obtained by the deserter. If the family have land, and they give not *of it* to him, the hire is to be obtained by those *who are* outside, and the portion of the erections which the law has not declared

JUDGMENTS OF CO-TENANCY.

fine dosum. Muna ḟuil ferand itir ac fine, comroinnit itir re ocus saoṫar don foċruic, ocus cendcadsum féin dó iní na ro dílsi dligeḋ do na dentaib. Má ṫá fearand ac fíne, ocus ní gabunnsum, is comroind itir ré ocus saothar don foċruic, ocus ní beirsium ní do na dentaib.

Más for óin do rataḋ in fearann, ocus nír cindeḋ ré airisṫe fair, ciḋ fada bes fair, cid re deṫbirius cid re hindeṫbirius deaċas, is a denta do fagbail do.

Mara fuagraḋ ata fair, cid re deṫbirius cid re hindeṫbirius do gneiṫ, is a denta do breiṫ do leis.

Máḋ ro cindeḋ ré fair, ocus táinic in re, is a denta do ḟagbail do. Mas he féin do coiḋ ass re deṫbirus, is comroínn itir re ocus saoṫar. Mas a nindeṫbirus do coiḋ ass, facbuit na dénta.

Mara fuagraḋ atá fair, cid is in ló deiḋenach fuagurtar dó i nindeṫbirus, beiriḋ leis a ḋenta.

Más re deṫbirus ro fuagraḋ dó, is comroínn itir ré ocus saothur. Mas do ṫuar no dailech fair do rattaḋ, ocus maḋ ro cinneḋ ré fair, is a beiṫ for in ré.

Muna ro cinneḋ ré fair itir, is airdiṁes comaigṫech fair. Mas ré caiṫem a feoir ocus ria trebuire do rattaḋ, is trían cach mil for a mbi in f̄b̄t̄.

Más re caiṫeṁ feóir nama tucaḋ he, is fer ataiġ seċt mbu i tír a ċéili, for faguiḃ in seċtmaḋ boín dia bliaduin, ocus loġ bó do ċaoiriḃ ná tard for áird do beṫ a foeitseċt aigi.

Maḋ ro aċtaiġ cín ar, ocus ro haireḋ, is dilsi ín air co na ḟil, ocus cuic seoit. Munar aċtaiġeḋ cin ar, is slán, act in ní dia trebuiri forruicc ar a ċind in a tír, is diles dó.

Duíne so ris náċ éidir fubu na rubu a ferainn do denam, no ciḋ éidir noċa ail léir a denum; conid eḋ do níther ris

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[1] *Increase.*—That is, which increases in size, condition, &c.

forfeit, the family shall purchase for him (*the deserter.*) If the family have no land at all, they equally divide the hire between the time and the labour, and he himself purchases the portion of the erections which the law has not confiscated. If the family have land, and he (*the deserter*) would not accept *of it*, the hire shall be divided equally between time and labour, and he shall obtain no portion of the erections.

If the land has been let for hire,[a] and no time has been specified, whatever length of time he shall be upon it, whether with necessity or without necessity he goes, he shall leave behind his erections.

If he is noticed *to quit*, whether it is done with necessity or without necessity, he may carry away his erections with him.

If a term has been specified for him, and the term has expired,[b] he shall leave his erections *behind.* If it is he himself that went away *of his own accord* with necessity, it (*the value of the buildings*) is to be divided between time and labour. If he has gone away without necessity, he shall leave *behind* the erections.

If he is noticed *to quit*, though he should be noticed on the last day *of his term* without necessity, he may carry off his erections.

If he has been noticed *to quit* by necessity, there is to be a division between time and labour. If it (*the land*) was given him for manure or dung, and if a time has been specified for it, it shall be according to the time.

If a time has not been specified at all, it shall be settled by the award of the neighbours. If it is to consume its grass *only*, and for forming erections it was given, it is one-third of every animal on which there is increase[1].

If it is to consume its grass only it (*the land*) was given, he is as "a man who has placed seven cows on the land of his neighbour;" the seventh cow shall be left *as payment* at the end of the year, and he has in reserve the value of another cow in sheep, which he does not bring into the account.[c]

If he has stipulated not to plough, and it has been ploughed, the tillage and the seed are forfeited, and five 'seds'. If no condition has been made as to not ploughing, he is free, but the portion of his farm buildings, which he found on the land before him, becomes his by right.

A deserter. This is a person who is not able to perform service of attack and defence for his land, or though he may be able is not willing to perform them; what is done to him is to give him notice

[a] Ir. *Loan.*

[b] Ir. *Come.*

[c] Ir. *Bring forward.*

JUDGMENTS OF CO-TENANCY.

arad ocus troscaḋ do ṫabairt air, ocus athgabáil da gabáil de iar sin; ocus noċa nuil cinne airiġṫi for in athgabail sin, aċt athgabail da saoilter a tiaċtain re dligeḋ, ocus tét fogeilt ocus bleṫ ina cenn, ocus ní ṫeit lobu.

Mana buil croḋ aigi féin, tabraḋ araḋ for inbleogain is neasa dó, ocus athgabáil do gabail de iar sin; ocus noċa nderna fubu ocus rubu in ferainn; noċa dilside in ferann don ti do denad fubu ocus rubu.

Maseḋ do rinde in fine in fearann do tabairt ar foċruic, maḋ táinic in teisert amúiġ iar ré na foċraca, dilsi na fochreca don fine, ocus ní dia ṫrebuire forricc ina ṫir, is diles dósan .i. do eissert.

Mas re ré na foċraice táinic amúiġ he, denait in fine a imfulung gu tí in ré; ocus ma do beir in fine fearann dó, ocus geibiḋsium in fearann, dilsi na fochruice don fine, ocus dilsi na ndénta don eissert.

Muna ṫabrat in fine in fearann do, ocus ata fearand acu, ccus geísibisim ferann, aisec na focreca ón fine amaċ, ocus fuasluicitt in fine a dénta ocus a seotta dosum.

Mad tairgit in fine ferann dó, ocus ní háil dósum a gabail, caċ ní ro dilsiġ re don foċruic bid aca fine; caċ ní na ro dilsiġ don fochruic ícasom fris in fear amaċ, ocus beiriḋ in fer amaċ na dénta, no fuasluicid dosum iad. No dono, ċeana, caċ ní ro dilsiġ re don foċruic biḋ aca fine, caċ ní na ro dilsi ré don foċruic, is a nairic on fine amach, ocus beiriḋ in fear amach na dénta, no fuasluicíd iatt.

Muna ḟuil fearann ag fine, ocus ro gebuḋsum ferann, caċ ní ro dilsiġ ré don foċruic bid oca fine; cac ní na ro dilsig ré don foċruic a airicc o fine amach; caċ ní na ro dilsig ré do na déntaib, beirid in fer amaċ, no fuasluiceḋsuṁ iatt.

Fearann duine eile tucustar ar fuċruic annsín. Mas e a ferand bodéin tucustar duíne ar foċruic, aċt maḋ ro cíndustar

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[1] *Who is outside.*—This seems to mean "the man who holds the land."

JUDG-MENTS OF CO-TENANCY.

by warning and fasting, and make a distress upon him afterwards, and there is no certain restriction upon this distress, but *that it shall be such* a distress as that it may be thought sufficient to induce him to come (*submit*) to law, and expense of feeding and tending shall be added[a] to it, but forfeiture is not added.[a]

[a] Ir. *Goes.*

If he has not cattle himself, let him give notice to his nearest of kin, and let distress be taken from him afterwards; and he has not performed the service of attack and defence *due* of the land; the land is not more the rightful property of him who should perform service of attack and defence.

If what the family has done is to let out the land on hire, *and* if the deserter has come outside after the term of the hire, the hire is due to the family, and that part of his farm requisites which he found on his land belongs to him, i.e., to the deserter.

If it is before the term of the hire he has come outside, the family shall support him until the expiration of the time;[b] and if the family have given him land, and he accepts of the land, the family are entitled to the hire, and the deserter is entitled to the erections.

Ir. *Until the time comes.*

If the family do not give him the land, when they have land, and he gets land *elsewhere*, the family shall return the hire out, and the family shall redeem his erections and his 'seds' for him.

If the family have offered him land and he is unwilling to accept of it, every part of the hire which time has rendered forfeit shall belong to his family; every part of the hire which is not forfeit shall be paid to the man *who is* outside, and the man *who is* outside[1] shall bring away the erections, or they shall be redeemed for him. Or indeed, *according to others*, every part of the hire which time has rendered forfeit is *due* to his family, whatever part of the hire has not been forfeited by time shall be returned by the family out, and the man who is outside takes the erections,[2] or they (*the others*) redeem them.

If the family have not land, and he (*the deserter*) obtains land *elsewhere*, whatever part of the hire time has forfeited belongs to the family; whatever part of the hire time has not forfeited is to be returned by the family out; whatever part of the erections time has not forfeited the man outside takes; or he (*the deserter*) redeems them.

It is the land of another man that he has, in this case, let out on hire. If it be his own land a man has let out on hire, but so

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[2] *Erections.*—'Ꞇénτα' means houses, folds, stalls, sheds.

JUDGMENTS OF CO-TENANCY.

ré airithe eaturru, cemuḋ isin dara cét lá deidenaċ don ré ro fogurṫa he a níndeṫbiriur don fearann, in fochrúic ocus na denta do breṫ dó léir, ocus ciamad isin dara cét lá deiḋinach don ré do deacharum a níndeṫbiriur de, ín foċruic ocus na denta dó. Ma ṫainíc deṫbiriur do neaċtar de, is comroínn itir ré ocus traothur don focruic ocus do na dentaiḃ.

Ar foċraic tucustar duine a fearunn annsin, ocus mar do denam dénta air tucustar he, act má ro cinnustar ré airithe air eaturru, cid re deṫbirus ciḍ re hindeṫbirus focarṫa éisium don fearann, is na denta uile do breṫ dósum leis.

Maḋ ro cindustar ré airiṫe eturru, aċt mad ta ar ín ferann he risin ré sin, is dilsi na ndénta dfer bunaiḋ ín ferainn i forbu na ré. Re denum denta air tucustar duine a fearann and sin. Mas re denam tuair no aoileċ air, aċt maḋ ro eimdeiligustar ré airiṫe air, in fearann do beṫ ac on fir amuíġ ris in ré sin. Munar cínnestar ré airiṫe eaturru itir, ín fearann do beṫ acon fir amuiġ, no gu tucaḋ re a ṫuair nó a ailiġ ass.]

Ruiriud dono, rith tar teora sealba, no ceiṫeora sealba. Odcathaig and sin, arus óg ín follugad. Ruirid raite dono, rith tar tri hair[c]eann teora sealba; is ruiriud, ocus is follugad, muna imge deithbire.

Ruiriud dono .i. ise cuit in dono ann, uair tairrsce a dubramar romaind. Tar teora sealba .i. tar teora feranna .i. boairech. No ceiṫeora sealba .i. tar ceiṫri ferannaib. Odcathaig .i. cin óg, cín comlan in ni hisin, .i. airlíme. Arus óg ín follugat, .i. is comlan in follugad sin do na buachaillib, is ime ata eiric comlan ind. Ruirid raite .i. rith ro fata do denum doib dono, no reimnígud doib dono, co ro fata. Rith tar tri hair[c]eann .i. rith tar fir cenn teora ferand. Is ruiriud .i. is eiric ruidída ind. Is follugad .i. is faill og do na buachaillib. Muna imge deithbire .i. mana roib deithbirus acu neimditin a mbuachaille.

JUDGMENTS OF CO-TENANCY.

as he has specified a certain time between them, even though it should be on the second last day of the term he has been noticed of necessity to quit[a] the land, he shall bring the rent and the erections with him, and though it should be on the second last day of the term that he was warned off[b] *the land* without necessity, the rent and the erections are his. If necessity has happened to either of them, the rent and erections are equally divided between time and labour.

It was for hire a man let out his land in this case, and if he let it to erect buildings upon it, but in such a manner as that he has specified a certain time between them concerning it, whether it was of necessity or without necessity he (*the tenant*) has been warned off the land, he may take all the erections away with him.

If he has specified a certain time between them, but so as he has been on the land during that time, the erections are the property of the original owner of the land at the expiration of that time. It was to make buildings upon it a man has let his land in this instance. If it was for the purpose of making manure or dung upon it, but so as a certain time has been stipulated concerning it, the land shall belong to the " man without " during that time. If he has specified no particular time between them at all, the land shall belong to the "man without" until the time of his manure or of his dung has been taken out of it.

Running over now, *means* running over three holdings, or four holdings. There is full fine for this, for the neglect is complete. But a very long running names running over the three head-lands of three holdings; it is running over, and it is neglect, unless necessity excuses it.

Running over now, i.e. the force of the 'now' here is because it was of a 'tairsce'-trespass we spoke before. **Three holdings**, i.e., over the three lands (*farms or holdings*), i.e., of a 'bo-aire'-chief. **Or four holdings**, i.e., over four lands (*holdings*). **Full fine**, i.e., it is full crime, complete trespass, i.e., of 'airlim'-trespass. **For the neglect is complete**, i.e., this is complete neglect on the part of the shepherds, and it is therefore that complete 'eric'-fine lies for it. **A very long running**, i.e., a very long running is made by them, or a running by them to a great length. **Running over the three head-lands**, i.e., running over the very extremities of three lands. **It is running over**, i.e., it is 'eric'-fine for running over, that is *paid* for it. **It is neglect**, i.e., it is perfect neglect on the part of the shepherds. **Unless necessity, &c.**, i.e., unless there was necessity which well screens the shepherds.

[a] Ir. *Off the land.*

[b] Ir. *Went off.*

JUDGMENTS OF CO-TENANCY.

.1. Atait dono trí ruirida ann: ruire tar teora sealba, ocus ruire raite, ocus ruire tracta.

Cesc—cod a midídar ruire tracta ocus raite? Nin; Co rabadar ocht nurcora dec and do ḟleascaċ. Is e ruiriuḋ raiṫi annsin ocus tracta, ar ní tairgealla neaċ fri raile iar sin acht for ime índríc, no abann domain, no r , no allad.

Ma do cuatur na hindilli tar aen aircind, no tar da aircind, is eiric tairsce uadaib and; mas tar tri aircend no tar ceiṫri aircenn, is eiric ruiriuda orro ann; ocus ethait ní ina feis ocus ina nairlím, ocus noco nethait ní ina ruiriuḋ
O'D. 2186. na ína tairsce. [Ocus ma do cuattar tar fearann graiḋ no tar da fearann, is eiric tairsce orra ann. Fiaċ feisi geimrid a ruiriuḋ aoiḋċe in geimrid; fiaċ airlime lae a ruiriuḋ in lae.]

Cair—Caide an airceand?—Teora fairge ocus urcor fleascaig, is eiside macc bundsaiġe, a comḟad and sin dono do tracht, leath ín índruic imme ím rod. Imfean cach ber siu ocus anall, imfoilngead ime indric atarru samlaid.

Cair—Cia meid smachta fil a comicear?—A dó; smacht íme ocus ceaṫra, genmota caithe.

Ca meid caithe fil a comichear?—A teora; caithe aile, ocus caiṫe ceaṫra, ocus duine caithe.

Cair caide airceand? .i. comaircím caiti aithne na aircinde itir? Urcor flescaig, .i. ina fuillid. Is eiside macc bund-

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[1] *Spear-casts.*—That is as far as a 'flescach'-youth could cast a wand or spear.

[2] *If the cattle, &c.*—The Irish for the first part of this paragraph is found on the lower margin of col. 1, p. 4, of the MS. E. 3, 5.

JUDGMENTS OF CO-TENANCY.

There are indeed three kinds of running over; running over three possessions, and long running over, and running over a strand.

Question—How are the strand running over and the road running over estimated?—Answer: When there are eighteen spear casts[1] of a youth on it. That is road running over and strand running over, for no one shall give additional pledge to the other for this, except over a lawful fence, or a deep river, or *an inlet of* the sea, or a cliff.

If the cattle[2] have gone over one headland, or over two headlands, 'eric'-fine for breach *shall be paid* for them therein; if over three headlands or over four headlands, there shall be 'eric'-fine for running over *due* from them for it; and they eat something in their 'feis'-trespass and in their 'airlim'-trespass, and they eat nothing in their running over or in their 'tairsce'-trespass. And if they have passed over the land of one of grade (*a dignitary*), or over two lands, the fine of 'tairsce'-trespass is *charged* upon them for it. There is the fine for winter 'feis'-trespass for a running over on a night in winter; *and* the fine of an 'airlim'-trespass by day for a running over by day.

Question—What is the headland?—Three 'forrach'-measures,[2] and the shot of a rod cast by a youth, *i.e.*, the spear-youth, the extent of that of the strand is *equal to* half the lawful fence to a road. They reckon *the ditch* on the one side and the other, so that it makes the full fence, *and* thus a lawful fence is sustained between them.

Question—How many 'smacht'-fines are there in a co-occupancy?—Two; 'smacht'-fines of fence, and of cattle, besides the trespasses.

How many trespasses are there in a co-tenancy?—Three. Trespass of palisades, trespass of cattle, and trespass of men.

Question.—What is a headland, i.e. I ask how is the headland known? The shot of a rod cast by a youth, i.e., in addition to it. That is the spear-youth, i.e., it is the 'fleascach'-youth, i.e., the boy who

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[2] '*Forrach'-measures.*—The 'forrach' was a measure of land containing 552 yards. (H. 3, 18, p. 146.)

JUDGMENTS OF CO-TENANCY.

saiġe, .i. is e in flescach .i. mac diubraicer in mbunnsaig. A comḟad .i. a coimet no a cutruma in ni sin a trachṫ mara, cid ferann aili ar a mbi tectugad dechsat na hindilli, biaid eiric rufoida ind. Leath in indruic imme, .i. smacṫ leṫ ime indraice a ndul tar leṫ clad in roit, is lan ime forr in dara clud .i. se duirn isin clud ocus se duirn isin ċuaille, .i. leṫ ime for ceċtar in da clad. Imfean, .i. airimed caċ don leṫ seo ocus don leth aili iman rot, co roib lan ime and. Imfoilngead ime indric, .i. imfoilngiter ime dligṫech etarru amlaid sin. Atarru samlaid .i. itir in da clad.

Cair—cia meid smachṫa? .i. cia meit smaċta uil is in comaithecus, is in naithaċus cumaiḋe, .i. cia lin fris a tabar smaċta i comaithces. Smachṫ ime .i. in ni smaċtaigter i ndul tar an ime. Ceaṫra .i. cethra conboing for daingen, no dono ar a namain .i. in da screpall .i. in fiach dunacaithe, no na meich. Genmota caithe .i. cenmota in smaċt uil o na dainiḃ do niat ris in ferand .i. brised in aile.

Ca meid caithe .i. cia meit cinta do niat na daine ris in ferann is in aithecus cumaide. Caithe aile .i. dartaid a ṫri ċuaille. Caithe ceaṫra .i. a cethra do cur ind .i. na meich. Duine caithe .i. na cinta aili do niat na daine ris in ferann ina ecmais sin.

.1. Cesc—Cadiad caithe sealba? .i. caithgí alaile cetamus, ocus a caithgi fadesin, aimsir imbi raiṫ caich a tire ar loingseaċaib ocus ar conaib alltaib, ocus cathgí a roite:

Cesc—Cad iad caithge aile? A nasdaḃ it ḟeilb cene fola aile a nuir, ocus rathus a ime fort iarsuidiu, ocus dilsi neiċ ro ortar fort tairisin; ocus indilsi neich ro ortar uait furru. Cín do ċuaillí fort, ocus do liac, ocus do ċlairi, ocus do crandċe; ocas cia ruibet, ocus cia ro orat, cia robdaid.

Caiṫe ceime tra; a leṫ caiṫe fort caċ aen bliadna, no ogċaṫaig caċ ara bliadain. Do baidet caiṫe lia ndibad fadesin.

Cesc, tra,—cid frisa nastaither cáiṫe aile iaŕ na ndibud? Adainter fri cuimne seanċad indraice do do airrither in ime, co clandad leo in ime fa tri cen sena,

JUDGMENTS OF CO-TENANCY.

casts the rod. The extent i.e. the same extent or the same proportion of the sea shore, if the cattle should pass over it into another land lawfully occupied, there shall be 'eric'-fine for the running over *due* for it. Half for the lawful fence, i.e. the 'smacht'-fine for half the lawful fence is *due* for going over the one mound[1] of the road, it is full *fine* for *going over* the second wall, i.e. six hands is the *height of the* mound and six hands is *that of* the palisade, i.e. half fence *is reckoned* for either of the two mounds. They reckon, i.e. for they reckon each on this side and the other of the road, so that they make *or amount to* a full fence. A lawful fence is sustained, i.e. a lawful fence is thus sustained between them. Between them thus, i.e. between the two mounds.

Question—how many 'smacht'-fines? i.e. how many 'smacht'-fines are there in the co-tenancy, in the common tenancy, i.e. how many things are there for which 'smacht'-fines are paid in the co-tenancy. 'Smacht'-fine of fence i.e. the thing which is commanded *to be paid* for going over the fence. Of cattle, i.e. cattle which break through fastnesses, or indeed on being driven *break fences*, i.e. the two 'screpalls,' i.e. the fine for man-trespass, or the 'sacks.' Besides the trespasses, i.e. besides the 'smacht'-fine which is paid by men for the trespasses which they commit in the land, i.e. by breaking the palisades.

How many trespasses, i.e. how many damages do men do to the land in the common tenancy? Trespasses of palisades, breaking of stakes, i.e. a 'dartaidh'-heifer for three stakes. Cattle trespasses, i.e. to put cattle into it, i.e. 'the sacks'. Men trespasses, i.e. the other faults which men committed regarding the land besides these.

Question—What are the damages of possessions? i.e. the trespasses of another person, in the first instance, and his own trespasses, when every territory requires to defend itself against pirates and wild dogs, and the trespasses on his roads.

Question—What are the trespasses of stakes? To retain them in thy possession without sticking them in the ground, after which thou art responsible for the fence, and the right to the thing damaged is upon thee besides that; and the making good by thee of the thing *which has been damaged* is upon them. The default of thy stake *is* upon thee, and of thy flag-stone, and of thy trench, and of thy stake-fence; *and whatever damages shall result therefrom* by goring, or damaging, or wounding.

As to the trespasses in respect of a passage; half the fine upon thee every year, or full fine every second year. The trespasses are merged by the 'dibadh' of themselves.

Question—By whom are the trespasses of stakes established after the 'dibadh' of themselves? They are restored from the memory of a worthy antiquary by whom the fence was witnessed, so that the fence was planted by them thrice without denial.

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[1] *Mound.*—'Cladh' means a wall of earth, a dyke, but it is commonly translated 'a ditch,' as in the term, a 'furze ditch.'

JUDGMENTS OF CO-TENANCY.

Cair—Cid clannas aile? Noil ocus iuail.

Cair—caíde iuaill? Aile in ime fa tri cen sena. Os mad senaigter cise noail no clanna? Luga seanċa innrice fíad a nimcu. Os muna bed seancaide, da bo-aire innrici do ċur craind, ocus ala hí dia luġa, ocus aire toíngeas itir dis, isseḋ clannas aile ísin.

Os mad ín criċ uile ro laḋ inna seċt naċa dirigter? Nīn. Ar atait ín da bla dec frisi cuindriġter criċ.

Cad iad siat? Nin. Clar bla, ail bla, find bla, noes bla, bla mucnaiġe, ocus gno bla; bla ímfogla, ocus linn bla, rodarc bla, bla nearbaige, bla reime [clad bla].

Clar bla; criċ annsin nad nincoisceadsiaċ comarda, ocus na ċuinnridter seancaid.

Cesc—co suidaiġter? A himtomas i nde, i seilb ime biad. Mad ro bed da comarba, do rannaid riam.

Ail bla; criċ íncoisce ail adrada, no áil annscuiṫe, no crann, no líg, no ail leaċta. Dia mbed seċt comarda dib and in tuċt sin, caċ ae is arailíu, isi criċ ann sin na cuinscaidtear.

Fiḋbla; criċ son íncoisce bile feada, no fid comarta hé, re feḋa comard aé caċ ae uas araili, no all bog, no sen roil cudmaide do leicead. Condirigter dono criċa frisin, a mbed seancaid co níndoscid for ii is derb.

Noes bla; .i. criċ ína coisce guire noise no searca i fiḋ no a muiġ. Adsuiġe críċ cadesin, munus gluaisead seancaiḋ, ar id comarda criċe in sin.

Bla mucnai; .i. criċ son íncoiscí cet bona crann no cuaille i talam no dibill muilind, no seantraigead fo tuind. Is daí am criċ, muna bé roil con a roisce.

Bla .i. gno bla criċ íncoisce dumae no bun nomna, no dumae crainn; adsuiġidter criċa frisin.

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[1] *Shall thrust in the stick.* The Irish may also mean, "Shall cast a lot.'

[2] *Disturbed.* The text must be defective here.

JUDGMENTS OF CO-TENANCY.

Question—What settles the stake? An oath and prescription.

Question—What is prescription? The sticking of the fence thrice without denial. And if it be denied, by what oath shall it be settled? An oath of a worthy antiquary to be a witness of the fencing. And if there should not be an antiquary, two worthy 'bo-aire'-chiefs shall thrust in the stick,[1] and the one shall take his oath, and the 'airè'-chief who swears between two is he who shall thrust in the stake then.

And if the whole territory be divided into seven parts so that they (*the antiquaries*) cannot direct them? Answer—For there are the twelve marks by which a boundary is defined.

What are these? Answer—A flat mark, a stone mark, a tree mark, a deer mark, a stock mark, and a mound mark, a division mark, and a water mark, an eye mark, a defect mark, a way mark, a mound mark.

A flat mark: this is a land which is not distinguished by any land mark, and which antiquaries cannot define.

Question—How is it settled? It is measured into two, into the possession of those around it. If there be two 'coarbs,' they divide it first.

A stone mark: *i.e.* a district which is marked by a stone of worship, or, an immovable stone, or a tree, or a flag, or a monumental stone. If there be seven land marks of them therein at that time, one over the other, it is a boundary that cannot be disturbed.[2]

A wood mark: this is a district which is marked by an ancient tree or a tree mark, the one *with* the other, or an 'all bog' tree, or ancient oak[3] which was allowed to fall. The boundaries are defined by these, unless there be antiquaries to instruct as to the certain thing.

A deer mark: that is a district marked by the hair of deer or of dry cows in a wood or in a plain. These determine meers, unless the antiquaries remove them, for these are meers of a territory.

A stock mark: i.e. this is a district marked by the first trunks of trees, or a stake in the earth on the ruin of a mill, or an old bridge under the water. These are land marks which define, unless there be some other thing to explain.

A mound mark: i.e. a district marked by a mound or trunk of an oak, or mound of a tree; meers are defined by these.

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[3] *Ancient oak.* See Welsh Laws, p. 373, for meer-timber.

JUDGMENTS OF CO-TENANCY.

Lind bla, .i. criċ íncoisce uisce aba no loċa no tiprait. Atsuigaidter criċa forsin ma direaċ an indus tiasda.

Roḋarc bla .i. criċ íncoisce comarda feaḋa no muiġe, crainn no liag, no comarda talman. Isi cric do mídigear rosc, ocus adsuiġaidter criċe frisin, ma ro feisear in da aiġe derba bidé iman rainn sin.

Bla earsbaiḋe; crich íncoisce earsbaiġ talman .i. fan, no feisc, no tail gleann, no laṫraċ sean roda. Condiriċtear criċa frisin dono, madia srebad seancaide.

Bla imfoġla; criċ do teid uisce glaise airm fo leanad ín da comarba ím da biad for ceċtar ín da leithe. Adsuigaiḋter criċa for sin.

Bla reíme; criċ son incoisce rod riġ no tuaiṫe, no rod ímfeagna, no boṫar. Is bla criċi ann sin.

Clad bla; criċ son íncoisce duae, na urclaide, no raṫ, no feart, no secịb duae; ar isi criċ ann sin na iḋan do dulius, criċ íncoisce claḋ no cora. Sic.

Adsuidiġter criċa tra fors na haibíseo; ocus ranna an ailí ocus folongad caithgi an aili iarum.

Sic. Caiṫge tire tra .i. fuga ocus ruga ar macaib tire ocus loingseaċaib, ocus corus fri tuaiṫ, itir sloigeaḋ ocus congbail, ocus roga.

Caithge raite .i. ime fris a aenur, ocus a slaige ocus a nurscartaḋ, ocus a coclaiḋ ocus glanaḋ a ngreallach an aimsir cua ocus aenaiġ, ocus doig ar am suiliḋ do caċ cobair araili. Ní dusli caiṫge do sunn, dusli somaine.

Somaine aile; a torad do neoċ do rala dé itir, ocus dire as urba.

Cair—co direanar son? Nin; uan molt i cuailli do tíscail as taili, uan boinind ana dó, dartaiġ ana tri cona nindtaiġ; dairt ina ceaṫair, colraċ ar a se, bo ana hoċt, cuic seoit ana do déc; aċt íd seoit gabla ada commeid, mad fri neiṫe fofeisear, ocus aithgin an aile do ime ínḋríc, ocus beiṫ fo raṫus co ceann ṁbliaḋna.

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[1] *The eye.* The eye fixes the boundary, if two points of it remain, i.e. by running a straight line between these points.

[2] *Are wanting.* The letter which Dr. O'Donovan read as 's' in the word 'srebad,' seems the usual form of long ı which precedes 'r' when that letter is doubled.

[3] *Roads.* For the different kinds of road among the ancient Irish, *vide* Cormac's Glossary, edited by Whittey Stokes, Esq.; also C. 806–7, and Book of Rights, pp. lvi., *et seq.*, Dublin, 1847. For rules as to the penalties incurred by persons injuring roads, *vide* Ancient Laws of Ireland, vol. iii., pp. 305, 307, 309.

A water mark: i.e. a district defined by the water of a river, or of a lake, or of a well. Boundaries are defined by these if they run in a straight direction.

An eye mark: i.e. a district defined by a mark of wood or of plain, of tree or of stone, or by a mark of earth. This is the district estimated by the eye[1], and boundaries are defined by these, if the two certain heads which are to this division be known.

A defect mark: *i.e.* a district defined by want of land, i.e. a declivity, or a sedgy place, or stony vale, or track of an old road. Boundaries are defined by these, if antiquaries are wanting.[2]

A mark of division: *that is* a district through which the water of a streamlet flows where the two 'coarbs' follow it, they being on either side of it. Boundaries are settled by this.

A way mark: that is a district marked by the road of a king or a people, or a road of carriage, or a cow-road. These are district marks.

A mound mark: this is a district marked by a mound, or ditch, or rath, or foss, or any mound whatever; for this is the *kind of* district into which it is not proper to enter, *namely*, a district bounded by a ditch or stone wall.

Boundaries are settled by these kinds *of land marks;* and they divide the stakes and sustain the fines for stakes afterwards.

The liabilities of land now, i.e. service of attack and defence against wolves and pirates, and *attendance to* the law of the territory, both as to the hosting and feeding, and service of defence.

The liabilities as regards roads,[3] i.e. a fence *is required* for it alone, and *it is necessary* to cut them and cleanse them, and remove their weeds and mire in the time of war and of a fair, and because it is expected that each should assist the other. He (*the owner of the road*) does not deserve damages from that, *but* he merits profits.

The profits of stakes are; the produce which comes of them in the land, and the 'dire'-fine for cutting them.

Question—How is this paid for? Answer: a wether lamb for removing a stake from its place, a she lamb for two, a 'dartaigh'-heifer for three stakes with their appendages; a 'dairt'-heifer for four, a 'colpach'-heifer for six, a cow for eight, five 'seds' for twelve; but they are 'seds' of graduation of the same value, if it be known that they belonged to a dignitary, and a restoration of the stakes to a perfect fence, and to be security *for its safety* to the end of a year.

JUDGMENTS OF CO-TENANCY.

Somaine tíre; itir ḟiḋ, ocus fer, ocus ínnair, ocus uisce, ocus muír, ocus inbéar, ocus tascar, ocus friċe ⁊rl.

Somaine raite; itire ocus a riti ocus aigiḋ; ceiṫeora bu rannad.

C. 31. [Caiṫċi ceṫra tra; tri caiṫce fil do suidib .i. caitċe a ningine, ocus caitce a naḋairce, ocus caitċe a mbel; caithċe a ningne do neoċ conscara, ocus conclaid, ocus slaite; caithċe a naḋairce do nech guinte, ocus conscaratt; caithċe a mbel do neoċ gaibes do feraib na comaiġtech.

Co midedar tra na caiṫce so, ocus co herainetar? Berthar comaiġṫeċ innraic do mes na fogla, ocus soserthar fer fola [1] riaraib na comaiġṫeċ tar a eísi. Ma fér fola [1] a fola la fear no no da noirg ocus fér uaid i taeb airċinn besa ḟiu in fer ṅoirges. Muna be fer, gaibther diablad foċraice uad diaig, no arbaim, amail bis mes in feóir in ḟamfuċt sa i ngemfuċt.

Duine caiṫce tra .i. imfedain tar tír do ceile .i. arais, ocus aitreb, ocus follscuṫ, ocus foṫla, ocus an, ocus aircsiu.]

Cair—cad iad duinecaithe? .i. beim feda, eidir airiġ feada ocus athaiġ feada, ocus fogla feada, ocus losa feada.

Airiġ feada: dair, coll, cuileand, ibur, iundius, ochtaċ, aball. Cuic seoit a ndire cach ae; bo buinbeíme, colpach ína ngablaib, dairt ina craebaib.

Athaiġ feada: ferinn, sail, sceith, caertand, beithe, leam, iḋa. Bo a ndire cach ae; dairt ína craebu.

Fogla feada: draigean, trom, feorus, fíncoll, crithaċ, caiṫne, crand fir. Dairt a ndire caċ ae.

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[1] *Their joints.* There is some defect in the MS. here.

[2] *Birch.*—'Beithe' is found in some ancient glossaries as a gloss on 'Buxus,' the Box-tree. It is now applied only to the 'Birch.'

[3] *Idha.* Dr. O'Donovan does not give an English equivalent for this term. Prof. O'Curry suggests 'Palm.' It is, under the form 'Iodha,' commonly trans-

JUDGMENTS OF CO-TENANCY.

The profits of the land *are: every produce which it bears*, both wood, and grass, and herbs, and water, and sea, and harbour, and what the sea casts ashore, and waifs, &c.

The profits of roads *are:* their 'dire'-fines, their strays, their joints;[1] four cows they share.

The trespasses of cattle, now; there are three trespasses by them, i.e. the trespasses of their nails, and the trespasses of their horns, and the trespasses of their mouths; the trespasses of their nails by separating, and tearing, and plundering; the trespasses of their horns by goring and tearing; the trespasses of their mouths by what they eat of the grass of the neighbours (*co-tenants*).

How now are these trespasses estimated, and how are they paid for? A worthy neighbour is brought to appraise the trespass, and grass of equal value is *given* at the decision of the neighbours. If the man who has committed the trespass has grass of equal value, let him give grass in the side or head of a field to the amount of the grass which he has plundered. If he has not grass, let double the hire be given by him afterwards, or produce, according to the appraisement of the grass in the hot or in the cold season.

As to the man trespasses, now, i.e. passing over thy neighbour's land, i.e., ploughing, and residing, and burning, and casting him out, and driving, and examining.

Question—What are the man trespasses? Cutting trees, both chieftain trees and common trees, and shrub trees, and bramble trees.

The chieftain trees *are;* oak, hazel, holly, yew, ash, pine, apple. There are five 'seds' for the 'dire'-fine of each; a cow for cutting their trunks, a 'colpach'-heifer *fine* for their arms, a 'dairt'-heifer for their branches.

The common trees *are;* alder, willow, hawthorn, mountain ash, birch,[2] elm, 'idha.'[3] A cow is the 'dire'-fine for each; a 'dairt'-heifer for their branches.

The shrub trees *are;* blackthorn, elder, spindle tree, white hazel, aspen, arbutus, test-tree.[4] A 'dairt'-heifer is the 'dire'-fine for each.

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lated 'yew,' but that tree is named before as 'Ibur.' It may be a species of pine. The translations given for 'ꝼeoꞃuꞅ,' 'cꞃanꝺ ꝼiꞃ,' and 'ꞃaiꞇ,' are only conjectural.

[4] *Test-tree.*—Some tree probably from which lots were made.

JUDGMENTS OF CO-TENANCY.

Losa feada; raith, rait, aiteand, dris, fraech, eideand, gilcach, spín. Cura a ndire cach ae.

Cair cad iad duinecaithe? .i. comaircim cad iat na cinta do níat na daíne ris in ferann ín a écmais sin. Beim feda .i. tescad in feda co hindligṫech. Ochtaċ .i. in crand giuís. Cuic seoit .i. da tecait da ba. Bo buin-beime .i. ina naithgin. Colpach .i. oċt screpall ín aithgin. Dairt .i. ceiṫri scripall .i. ar seised. Bo a ndire cach ae .i. ocus ní ṫuc a naithgin ar aird. Dairt .i ceiṫri screpall i ndiri gabal na fodla .i. ar colpaċ se screpall, ocus is dire ar aithgin .i. no is ar samaisc. Eideand .i. leṫ diri craeb in cuilind is é lan diri bunbeime in eigind; no leṫ diri gabal in cuilind is é lan diri bun beime in eigind. Cura .i. tri scripall, no bes fiu da screapall ína dire.

.i. Beim feaḋa no a lomrad, do ranar caċ na o diri .i. aithgin indruic íneiċ ro bronntar dé, ocus cuic seoit ina dire. Aċt ní comsruiṫ caċ fiḋ fri araili; ar itait seċt nairig feaḋa, ocus seċt naithiġ feaḋa, ocus sect fogla feada, ocus seċt losa feada, ocus asain dire caċ ae.

Airiġ feaḋa; dair, coll, cuilenn, iundius, ibar, oċtaċ, aball. Dire ndaraċ; bo seiċe i coirtgead da ban asu, ocus dam seiċe i coirtgeaḋ da fer asa, ocus a fotraḋ co nderosc a slaine .i. uir minn ocus bocor ocus lemlaċt naire co tiagad da mer tars in creċt; aċt leṫ do beiṫ fair gorab slan. A mbunbeím, bo inḋ, ocus cuic seoit a dire. Colpaċ ina mor gabla, no ina dairbri bega, dairt ina craebaib. Is amne dire caċ airiġ feda dib.

Dair; ciḋ dombeir nairechus hi? Nin—A meas ocus a saire;

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[1] *A sixth.* A cow was worth 24 'screpalls,' and the young heifer called a 'dairt,' was the sixth of the value of this cow.

[2] *A cow-hide.* Dr. O'Donovan remarks on this. The original is certainly incorrect here. It should be, "For the barking of the oak to the extent required for tanning a cow-hide, a pair of woman's shoes is the 'dire'-fine." See O'D. 1677.

The bramble trees *are;* fern, bog-myrtle, furze, briar, heath, ivy, broom, gooseberry. A sheep is the 'dire'-fine for each.

Question—What are the man trespasses? i.e. I ask what are the crimes which people commit as regards the land besides these *above mentioned.* Cutting trees, i.e. cutting the timber unlawfully. Pine, i.e. the fir-tree. Five 'seds,' i.e. which amount to two cows.[a] A cow for cutting their trunks, i.e. for compensation. A 'colpach'-heifer, i.e. of *the value of* eight 'screpalls' as compensation. A 'dairt'-heifer, i.e. of four 'screpalls,' i.e. for a sixth[1]. A cow is the 'dire'-fine for each, i.e. for he did not bring their compensation forward. A 'dairt'-heifer, i.e. of four 'screpalls' as 'dire'-fine for the branches of the bramble trees, i.e. for a 'colpach'-heifer of the value of six 'screpalls' and 'dire'-fine is *here put* for compensation, i.e. or it is for a 'samhaisc'-heifer. Ivy, i.e. half the 'dire'-fine of the branches of the holly is *equal to* the full 'dire'-fine for cutting the trunk of the ivy; or half the 'dire'-fine for the branches of the holly is the full 'dire'-fine for cutting the trunk of the ivy. A sheep, i.e. of *the value of* three 'screpalls,' or worth two 'screpalls' *is due* as its 'dire'-fine.

That is, for cutting of trees or stripping them, full 'dire'-fine is paid for each, i.e., a perfect compensation for the portion of them which is damaged, and five 'seds' as 'dire'-fine. But all trees are not equally noble; for there are seven chieftain trees, and seven common trees, and seven shrub trees, and seven bramble trees, and the 'dire'-fine for each is different.

The chieftain trees *are;* oak, hazel, holly, ash, yew, pine, apple. The 'dire'-fine of the oak: a cow-hide[2] *is due* for *stripping off it* the barking of a pair of woman's shoes[3]; and an ox-hide for the barking of a pair of men's shoes; and also to cover it until the test of its recovery[4] is had, i.e., smooth[5] clay and cow-dung and new milk are to be put upon it until they extend two fingers beyond the wound *on both sides,* and half-*fine* shall be for it until it is whole. For cutting the trunk a cow *is paid,* and five 'seds' are its 'dire'-fine. A 'colpach'-heifer *is the fine* for their great arms, or for their small oaklings, a 'dairt'-heifer for their branches. The 'dire'-fine of every chieftain tree of them is such *as we have now stated.*

Oak: what gives it dignity? Answer. Its acorns and its

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[a] Ir. *Of which come two cows.*

[3] *A pair of woman's shoes.* That is, as much bark as would tan leather enough to make a pair of woman's shoes.

[4] *The test of its recovery.* That is, until it is secured against the effects of the weather.

[5] *Smooth.* The Irish word read as 'mınn' may be 'ınınn,' the original being doubtful.

JUDGMENTS OF CO-TENANCY.

coll? a maes ocus a cael; aball? a meas ocus a rusc; ibar? a aigde saera; cuilenn? fer for araili inn sin, ocus feirse carpaid; uindius? folaċ ocus rigliasda, ocus leṫ araḋ airm. oċtach? a bi a tulca.

Athaiġ feaḋa; fern, sail, beṫe, lem, critheċ, idaḋ. cairtand. Bo bunbuíme caċ ae, dairt ína ngabla, caera ina craeba, cuic seoit ar earba.

Fodla feada; sceith, draigean, trom, feorus, crann fir, eidleann, fincoll. Colpaċ bunbeime caċ ae; cuic seoit ar earba, aċt draiġean, do ranadar sainde cuic seoit .i. draiġneaċ bís i fal eatarba do foiriċear, no draigean cubra.

Losa feaḋa; dris, aiteand, fraeċ, spin, gilcach, raiṫ. Leacla i dilse an aen gais, ocus dairt ína nearba. Is ámne do ranadar uili, aċt a ndilsi ocus rodilsi.

Deṫbir craind a fiḋ comaiṫcesa, ocus can deṫbir graiḋ. Deṫbir graiḋ a fiḋ neiṁed, ocus cin deṫbir craind. Smaċt a fiḋ neiṁeḋ no co mbentar uile, ocus eneclann ind o bentar.

Da ba ocus bo indlaeg ocus colpaċ oċt screpall tri diri na naireċ feḋa. Lulgach ocus colpach oċt screpall ocus dairt ceiṫri screpall, a tri naithgina. Lailgeċ ocus colpaċ oċt screpall, ocus dairt ceiṫri screpall, tri diri na natheċ feda. Samairc ocus dairt ceiṫri screpall, ocus dartaid da screpall a tri naithgena. Samairc ocus dairt ceiṫri screpall ocus dartaid da screpall, tri diri na fodla feda. Colpach se screpall, ocus dartaid da screpall, ocus caera scripuill, a tri naithgena.

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[1] *Noble structures.* That is, the highly prized pieces of furniture manufactured from it.

[2] *Fer for araili inn sin.* This phrase was left untranslated by Dr. O'Donovan. Professor O'Curry rendered it, "This is *the same as* inviolable grass"; a meaning which seems very doubtful. It may mean, "A man upon another in that," and refer to the use of holly sticks in fighting.

JUDGMENTS OF CO-TENANCY.

nobleness; hazel? its nuts and its wattles; apple? its fruit and its bark; yew? its noble structures[1]; holly? 'fer for araili inn sin,'[2] and the axle-trees of chariots *are made of it;* ash? supporting of a king's thigh, and half furniture of his arms. Pine? its being in the puncheon.

The common trees *are;* alder, willow, birch, elm, aspen, 'idhadh,' mountain ash. A cow *is the fine* for cutting the trunk of each, a 'dairt'-heifer for their arms, a sheep for their branches. Five 'seds' *is the fine* for their lopping.

The shrub trees *are;* whitethorn, blackthorn, elder, spindle-tree, test-tree, ivy,[3] white hazel. A 'colpach'-heifer *is the fine* for cutting the trunk of each; five 'seds' for their lopping, except the blackthorn, for which five 'seds' are paid, i.e. blackthorn which is in an unprofitable fence[4] (*broken down*) which is passed over, or sweet-smelling blackthorn.

The bramble trees *are;* briar, furze, heath, gooseberry, broom, fern. 'Leacla' is forfeited for one sprig, and a 'dairt'-heifer for their lopping. They are all thus paid for, except the right and the full right.

There is a difference of tree in a co-occupancy wood, without any difference of class. *There is* difference of class in a sacred wood, without difference of tree. *There is* 'smacht'-fine in a sacred wood until it is all cut down, and honour price *is paid* for it when it is cut.

Two cows and an in-calf cow and a 'colpach'-heifer *of the value* of eight 'screpalls' *are* the three 'dire'-fines of the chieftain trees. A milch cow and a 'colpach'-heifer of eight 'screpalls' *value* and a 'dairt'-heifer worth four 'screpalls,' *are* their three compensations. A milch cow and a 'colpach'-heifer of eight 'screpalls' *value* and a 'dairt'-heifer of four 'screpalls,' *are* the three 'dire'-fines of the common trees. A 'samhaisc'-heifer and a 'dairt'-heifer worth four 'screpalls,' and a 'dairtaidh'-heifer of two 'screpalls,' *are* their three compensations. A 'samhaisc'-heifer and a 'dairt'-heifer of four 'screpalls' *value*, and a 'dairtaidh'-heifer of two 'screpalls,' *are* the three 'dire'-fines of the shrub trees. A 'colpach'-heifer worth six 'screpalls,' and a 'dairtaidh'-heifer worth two 'screpalls,' and a sheep of *the value of* one 'screpall,' *are* their three compensations.

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[3] *Ivy.* The Irish word here is 'eidleann,' whereas in the text before (line 2, p. 148) it is 'eideand.' Dr. O'Donovan regarded them as different forms of the same name; Professor O'Curry suggested 'woodbine' as the translation of 'eidleann.'

[4] *An unprofitable fence.* ꝼal eaᴛaꞃba may possibly mean 'a fence between cows.'

JUDGMENTS OF CO-TENANCY.

Tri scripuill indtib itir aithgin ocus dire inntib sin in tan is a fid comichearsa, ocus ni fil ní na ngablaib, ⁊rl. Mad a fid neṁe beide imurro, ceiṫri scripuill indteib ar dire, ocus da screpall ar aithgin, ocus a trian ína ngabla, ocus a seisead ina craebaib. Anas aithgin do airechaib feda iseaḋ is dire do atheċaib feaḋa; a naithgin sin isseḋ is dire do foglaib feaḋa.

Aurba tire dona, idunacaite. Dartaig a tri cuailli cona níndteach, dairt ína cuic, colpach ana hocht, cuic seoit ana dodec, ocus aithgin la cach na; ocus beith fo cinaid na bernad co ceand mbliadna.

Aurba tire dona .i. fíreibe in ferainn dono. Idunacaite .i. is cinta dona dainib eiside. Dartaig .i. is fiu da screpall. Co na níndteach .i. cus aní is toich no is duthaig bis orro a hinde, in cáelach. Dairt ina cuic .i. ceitri screapaill. Colpaċ .i. oċt screapall. Cuic seoit .i. da tecait da ba, .i. iar fut. Aithgin la cach na .i. aithgin in aile la caċ smaċt dib sin, ocus daine ro bris ann sin he. Beith fo cinaid .i. cor foclat comaithig in airbe. Co ceand mbliadna .i. ar in re co roib fer bunaid i naititín a lesaigthi.

O'D. 406. [Dartaig i tri cuaillib] .i. da screpall o murcorṫi ina lulai; dairt ceithri scripuill ína cuic .i. lulai in deoraid ocus medontai lai ín urraiḋ. Colpaċ ocht scripuill a medontai lai in deoraiḋ, ocus bo indlaeg o urraḋ, ocus lulai ín urraiḋ, uair hoċt scripuill o urraḋ ína lulai, ocus bo indlaeġ se screpall

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[1] *Of its being repaired.* That is, acknowledges that it has been properly repaired.

[2] *Smallest offence,* i.e. cutting three stakes. Middle offence, i.e. cutting five or

Judgments of Co-Tenancy.

Three 'screpalls' both for compensation and 'dire'-fine *are paid* for them when it is in a co-occupancy wood *they are*, and there is nothing for their large branches, &c. If, however, it be in a sacred wood they are, there are four 'screpalls' for them as 'dire'-fine, and two 'screpalls' as compensation, and its one-third for their arms, and its one-sixth for their branches. The compensation for the chieftain trees is *equal to* the 'dire'-fine of the common trees; and the compensation for them (*the common trees*) is *equal to* the 'dire'-fine of the shrub trees.

But cutting of land is man-trespass. A 'dartaigh'-heifer *is the fine* for three stakes with their appendages, a 'dairt'-heifer for five, a 'colpach'-heifer for eight, five 'seds' for twelve, and compensation for every one of them; and he (*the trespasser*) shall be accountable for the injury of the gap to the end of a year.

But cutting of land, i.e. but the real cutting of the land. **Is man-trespass**, i.e. this is trespasses by the people. **A 'dairtaigh'-heifer** ***for three***, i.e. of the value of two 'screpalls.' **With their appendages**, i.e. with the thing which is natural or which is proper to be on them from the root, the slender twigs *placed across*. **A 'dairt'-heifer for five**, i.e. of four 'screpalls' *value*. **A 'colpach'-heifer**, i.e. of eight 'screpalls.' **Five 'seds.,'** i.e. which amount to two cows, i.e. altogether. **Compensation for every one of them**, i.e. the restitution of the stake fence with every 'smacht'-fine of these, and it was persons that broke it in this case. **Shall be accountable**, i.e. until neighbours (*co-tenants*) appraise the stakes. **To the end of a year**, i.e. until the time that the original proprietor admits that it has been repaired.[1]

A 'dairtaidh'-heifer *is due* for three stakes, i.e. two 'screpalls' *are to be paid* by a foreigner for the smallest injury;[2] a 'dairt'-heifer of four 'screpalls' *value* for five *stakes*, i.e. the small offence of the stranger is the same as[a] the middle offence of the native freeman. A 'colpach'-heifer worth eight 'screpalls' *is due* for the middle offence of the stranger, and an in-calf cow from a native freeman, and it is a small offence of the native freeman, because the middle offence of the stranger is the same as[a] the small offence of the native freeman, for eight 'screpalls' *are due* from the native freeman for his small offence, and an in-calf cow worth sixteen 'screpalls' for his middle

[a] Ir. *And.*

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eight stakes. Greatest or highest offence or trespass, i.e. cutting twelve stakes, and making by so doing a full gap in the fence.

JUDGMENTS OF CO-TENANCY.

ḋec ina medontai lai, ocus bo indlaeg o deoraiḋ ina cleiṫi lai; cuic seoit da tecaid da ba orraḋ ina cleiṫi lai.

O'D. 406.

[Cia o fuil in eiricc so, ocus cinnus ro segad in da screpull is na tri cuaillib? .i. dias do murchurtaib leth ċuinn ocus leith ceille, scripull uathuib in da cuaille dib .i. leiṫ scripull o caċ fiur dib .i. aon murcurṫa codnaig ocus scripall uaḋ isin tres cuaille .i. dias do murchurṫa leth cuinn ocus leiṫ ceille ann, ocus scripall uaṫa in da cuaille, ocus trian do murchurta codnuig, scripull o cach fir diḃ in caċ cuaille do na tri cuailliḃ eile .i. oċt murcurṫa codnaiġ and, ocus ocht scripuill uatha is na hoċt cuailliḃ.]

Ata orba nad aclaidead; aurba neigne ria sloġ, ria lonaib, ria flaiṫaib cia bodé.

Ata orba nad aclaidead, .i. ata firebeda do berar ar in ferand, ocus noco tabar aclaide fiach ar in ti do ní iat. Aurba neigne, .i. brised ar eicin resin slog, .i. for teiċed re slog. Ria lonaib, .i. na slog isin. Ria flaiṫaib, .i. rias na flaithib, cibe flaithe iat, mana uaratur conair aile.

Ata aurba ceana nad aclaidead: aurba nimḟeadna saire muilind, no duirthige, no membra, no saire duíni ríġ. Adcomarcar uile, arus sean fasac la feine, no liancur gach guiḋe; urba ria collaib, ria nailaiċraib. Duntar caċ norba.

Ata aurba ceana, .i. ata fireipeda cena cenmoṫa sin, ocus noco tabrat aclaidi fiach ar in ti do ni iat. Aurba nimḟeadna, .i. in fireipe do níter resin neímḟeḋaín do berar ar amus in muilind in tan biter ac denam a sairse. Duirthige, .i. moir. Membra, .i. bicc. Saire duini ríġ, .i. in tan biter ac a denam. Adcomarcar uile, .i. iarfaiġtir uile caċ ní diḃ sin dfir in feraind, .i. airiasaċt cen dunad, no dunad cen airiasaċt.

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[1] *Cuttings.* That is, breaches, or gaps.

JUDGMENTS OF CO-TENANCY.

offence, and an in-calf cow from the stranger for his highest offence; five 'seds' which amount to two cows *are due* from a native freeman for his highest offence.

By whom is this 'eric'-fine *paid*, and how do the two 'screpalls' proceed from the three stakes? i.e. two of the foreigners being of half sense and half reason pay[a] a 'screpall'[a] for two of those stakes, i.e. half a 'screpall' from each man of them, i.e. one sound-minded foreigner who pays a 'screpall' for the third stake, i.e. two foreigners of half sense and half reason in this case, and a 'screpall' *is paid* by them for the two stakes, and three sound-minded foreigners, every man of them pays a 'screpall' for every stake of the other three stakes, i.e. *there are* eight sound-minded foreigners in this case,[b] and eight 'screpalls' *are paid* by them for the eight stakes.

There are cuttings[1] which are not sued for; a forcible cutting before a host, before provisions, before chieftains of any kind.

There are cuttings which are not sued for, i.e. there are real cuttings which are made in the land, and fines are not sued upon the person who makes them. A forcible cutting, i.e. a forcible breach before the host, i.e. in flying before a host. Before provisions, i.e. of these hosts. Before chieftains, i.e. before the chieftains, whatever chieftains they be, if they had found no other passage.

There are cuttings also which are not sued for; a cutting for carriage at the construction of a mill, or of an oratory, or of a shrine, or at the building of a king's 'dun'-fort. Leave is asked about them all, for it is an old maxim with the Feini, "for every supplication is pleasant"; a cutting before bodies, before pilgrims. Let every breach be closed.[2]

There are cuttings also, i.e. there are real cuttings also besides these, and they bring no claim of debts upon the person who makes them. A cutting for carriage, &c., i.e. the real cuttings which are made by the carriage of *things brought* towards the mill when the construction of it is being made. Of an oratory, i.e. of a large *one*. Of a shrine, i.e. of a small *one*. The building of a king's 'dun'-fort, i.e. when it is being done. Leave is asked about them all, i.e. *permission to do* every thing of these is asked for of the owner of the land, i.e. consent without closing, or closing without consent.

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[a] Ir. *From them.*

[b] Ir. *In it.*

[2] *Be closed.* Or, let every gap or breach be closed, or every breach is to be closed.

JUDGMENTS OF CO-TENANCY.

Is ceṫramṫa in dartada no na dairti ind 7rl, a ceċtar de. Mad cen airiasaċt, cen dunad, is leṫ. Ma ro escestur, ocus ni comarleicter do, islan dia ndunа, mana duna, is cethramtha.

Arus sean farac la feine, .i. ar is sencinded og do reir in fenechais, .i. is cethramta in dartada, no na dairti ind. No liancur, .i. ailgen, .i. is liancair caireti he o beiṫir aca guiḋi. Urba ria collaib, .i. na marb, mana fagbaḋ conair aile. Ria nailaiċraib, .i. res in luċt teit ina ailiṫri. Duntar caċ norba .i. duntar caċ fhreirid dib sin, uair mana dentar noco slan.

Dia naċcomarcar in tan oslaictear fri deithbires, ocus duntar fon indus cetna, islan do. Ma ro dunad, ocus is mesu andas amuil ro bui, a ndigaib airi in droċ ime ictar uadsum. Mani ro dun itir, ictar smaċt na oirgne uad. Mana aċcomarctar itir, ocus duntar amuil ro bui, islan do. Masa olc, icad smaċt oirgne tairse. Muna duna itir, icad smaċt na oirgne, ocus leṫ cuic seoit, ar ni athcomarc.

Comicheach dono bis itir da tir dligid lan ímirċe; bid seisear umpu, triar o fir tire, ocus arail o fir imirċe.

Cuic seoit anain ocus atain, ma dichmairc, acht ain eigne; ni haclaide ain bo do tarb.

Comicheach dono bis itir da tir, .i. itir da ferand, in tir o na bi rot .i. uair noco nfuil conair aici feín. Dligid lan ímirċe, .i. do lecud do. O fir tire, .i. o fir ín ferainn. Araili, .i. ar in comlín bias ó fir bunaid ina ndegaid .i. uair noco nuil conair aici feín, ocus islan do caċ fogail do dena ris na comaitcib, amuil comrith nairme.

.i. Ata annad aclaiḋ dligeas caċ comaitheaċ dia raile .i. tir cen beola, cen rot, cen boṫur; dligiḋ lanimirċe tar caċ tir a comitaċ bes neasam do, aċt isseḋ índas na dlíg, sesur uimpe,

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[1] *Road.* Or unless another road could be found.

[2] *No road.* In O'D. 407, it is called a district, "cin toin cin beolu," "without an opening at the front or the rear."

JUDGMENTS OF CO-TENANCY.

It is the fourth of the 'dartaidh'-heifer or of the 'dairt'-heifer *that is due* for it, &c., for either of them. If without consent, without closing, it (*the fine*) is one-half. If he has given consent, and that he has not advised him to it, it (*the penalty*) is full fine if he closes, if he does not close *the gap*, it is one-fourth.

For it is an old maxim with the Feini, i.e. for it is a perfect old decision according to the 'Feinechas'-law, i.e. it (*the fine*) is a fourth of the 'dartaidh'-heifer, or of the 'dairt'-heifer for it. Supplication, i.e. clement, i.e. he is the more clement for being supplicated. A cutting before bodies, i.e. of the dead, unless they find another road.[1] Before pilgrims, i.e. before the people who go on a pilgrimage. Let every cutting be closed, i.e. every true cutting of these is closed, for unless it is done (*closed*) it (*the act*) is not guiltless.

If leave be asked, when it is breached[a] with necessity, and it is closed in the same way, it is guiltless. If it has been closed, and it is worse than it was *at first*, the damage done in consequence of the bad fence is paid by him. If it has not been closed at all, the 'smacht'-fine of the damage is paid for. If permission has not been asked at all, and it is closed as it had stood before,[b] it is guiltless. If it be badly *done*, he shall pay fine for the damage done by it.[c] If it be not closed at all, he shall pay the 'smacht'-fine of the damage, and half five 'seds', for he did not ask leave.

[a] Ir. *Opened.*

[b] Ir. *As it was.*

[c] Ir. *Over it.*

A co-tenant who is between two lands is entitled to full passage; six persons are *to be* about them (*the cattle*), three from the owner of the land, and *three* others from the man of the passage.

Five 'seds' *are payable* for driving in and out, if without asking *leave*, except in *case of* forcible driving; the driving of a cow to a bull is not sued for.

A co-tenant who is between two lands, i.e. between two farms, *i.e. in* the land from which there is no road,[2] i.e. for he has no passage himself. Is entitled to full passage, i.e. to be ceded to him. From the owner of the land, i.e. the owner of the farm. Others, i.e. for the proprietor shall have an equal number after (*minding*) them, i.e. for he (*the co-tenant*) has not a passage himself, and he is not amenable for any trespass which he may commit against the neighbours, as running of the *whole* stock *or drove*.

There is one stay which every co-tenant is entitled to from the other, i.e. *in* a land without an opening, without a road, without a way; he (*the tenant*) is entitled to full passage over every co-tenant's land that is next him, but the manner in which he is bound *to pass* is, *with* six persons about him, three persons

triar o fir tire, ocus triar o fir ímirċe dia nȯluṫaḋ fri felmad, ar na foleaṫad fon tir. Dia mbe boṫardc, do follaigear faide; dia mbed da claḋ íme, no dí coraiḋ, adsuitear leo ar ad fiadain annsin. Is de asrubraḋ, bradaid fiadain; muna bed aċt don dornsann ní himtecar la suidaib; is de asrubraḋ, ní bratad fiadain.

Cuic seoit anain, .i. ínund .i. ind. Atain, .i. imach, .i. as. Ma dichmairc, .i. ní uair conair aili, no ní coemnacair gabail íme. Aċt ain eigne, .i. uair islan eiside. Ain bo do tarb, .i. cuic seoit da decait da ba main, ocus is tar lan ime, ocus leth ín sein mana be íme Ma dar leṫ, is teora cethramṫa na da ḃo. Má dar lan íme ín athlumrar, is bo. Ma dar leṫ íme, is teora cethramṫa na bo; mad cen ime itir, isamairc.

O'D. 407. .i. [Tir cin toin cin beolu bis itir da f̣erunn cin conair. Ma

Sic. ṫir secht cumulu, dairtt cacha treimse ar conuir doib dia ninnilib. Ma tir cumuile, no tri cumulu, is on cinn bliaḋna co raill beós. Mad aon conuir, is molt cacha treisi, ocus is tir da seċt cumula isoduin; ma tir da cumul imurro, no tri cumulu, is isin cethrumaḋ bliadun, ocus is do eċtur fine ata uile. In tan is do fine, is ann is trian o fir tire, ocus arailí o fer imerce, ocus munu tardsom sin, islan do a breith tairis; no dono, na fogla do denuit chenu cen icc.

Finit don comaiche.

from the owner of the land, and three persons from the man who seeks the passage *shall attend* to keep them (*the cattle*) close to the fence, in order that they may not spread over the land. If he has a way, this may be omitted; if there be two mounds to it, or two stone walls, he is restrained by them for they are *a kind of* witnesses. From this it was said, "the witnesses are not to be removed;" unless they are but of the one side, they shall not be passed; and from this was said, "the witnesses are not to be removed."[1]

Five 'seds' for driving in, i.e. over, i.e. into it. **Out,** i.e. out of it, i.e. from it. **If without asking** ***leave,*** i.e. he did not find another passage, or he was not able to pass along it. **Except forcible driving,** i.e. for that is guiltless. **The driving of a cow to a bull,** i.e. five 'seds' which amount to two cows for this driving in, and it is over a full fence, and the one-half for the same if there be not a fence. If it be over a half *fence*, it (*the fine*) is three quarters of the two cows. If over a full fence into bare grass, it is a cow. If over a half fence, it (*the fine*) is three quarters of the cow; if there be no fence at all[a] it is a 'samhaisc'-heifer.

[a] Ir. *Without fence.*

This is a land without egress or ingress, which is between two lands without a passage. If it be a land of seven 'cumhals,' there is a 'dairt'-heifer every season *due* for allowing them a passage for their cattle. If it be a land of one 'cumhal,' or *a land* of three 'cumhals,' it is from one end of the year to the other. If it be one passage, it is a wether every third year *that is due*, and it is a land of twice seven 'cumhals' in that case; but if it be a land of two 'cumhals,' or of three 'cumhals,' it is in the fourth year, and all this is by (*in the case of*) an outside family. When it is by (*in the case of*) the family, then it is one-third from the owner of the land, and another *third* from the man of the passage, and if he does not concede this (*right of way*), it is guiltless for him (*the owner of the cattle*) to bring them over it; or, *according to others*, he is to pay the damage which they may commit *on the occasion*.

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[1] *To be removed.* The original is defective here.

Ends *the subject* of the co-tenancy.

bech bretha.

BEE-JUDGMENTS.

Bech Bretha.

BEE-JUDGMENTS.

Annsom hi taurgillib tairgille ar bechaib; alidside taurgille nairib tar tir bes da nesom cach lech, cia ba meit cia ba laiget; ar is a targillib berdair a mbretha a dtairsce, a ccinaid, a lloige ar cethardoit tire bes da nesom, dlegait seide deolaith doib de a loigib iar naimseraib suire.

Annsom .i. annsa em .i. doilig. Hi taurgillib .i. is do na geallaib toriṫneaċa is i duilġi do neaċ icas se geall toriṫneaċ da beir se dar ceann na meaċ .i. geall da screpall. Alidside .i. airiltnigid seiside geall toriṫneaċ orro, gid annsa, .i. geall da screball. Tar tir .i. do luċt na fearann is nesu doib do gaċ leiṫ, fria da taeb ocus fria da nairceann in tire. Cia ba meit .i. gid beg gid mor he .i. in fearann no na beiċ. Ar is a targillib .i. uair is ar tabairt gill toriṫniġ dar a ceann berar breiṫemnas orro. A dtairsce .i. im an gleiṫ. A ccinaid .i. im an caeċaḋ. A lloige .i. im an saiṫe. Ar cetharddoit .i. do luċt na ceathra fearann is nesu doib i mun doid. Dlegait .i. dleagaid side loġ doib ar in deolaiḋ no loġ deolaiḋ doib cin log aċt fomelt. Iar naimseraib suire .i. iars an re suṫaín ímíd beiċ i saeire.

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[1] *Two 'screpalls.'* The following note on 'Cain Cuisc' is found at the bottom of p. 21 of the MS. H. 2, 15.

"Geill da screaball fri digúin ocus ní uil fri turgabail, ar ni heigen ime riú gia da ned fogla ċomaitgesa, ocus ní hiad na gealla so ṫoites and, aċt cain cuisg ocus mian galair ocus ollabruíg nai re re tri mbliaḋan; no dan, is e geall is ċoir and is cutruma ris in cain cuisc .i. smaċt coṁaiṫċíusa do riṫ ríu iar tabairt na ngeall so amail ceaṫra eile; no gumaḋ i ín ċaín ċuisg ocus mían galair ocus ollabruiġ nai; ocus a tabairt a triur du gaċ ṫir, no gu na tuċta aċt einní dib do gaċ ṫir ocus giḋ mor da ḟealbaċaib beas in gaċ ṫir nuċu dleaġair aċt in cutruma sin doib uile re re na tri mbliadan; ocus in ceduine rig a leas is an criċ is a breiṫ deo, ocus giḋ soċaiḋi ita ina riaċtanas a leas is an criċ a neíneaċt, no go nuil aċt in cutruma sin doib uile.

There is a pledge of two 'screpalls' for meadow and there is not for raising *a*

BEE-JUDGMENTS.

BEE-JUDGMENTS.

AMONG additional pledges an additional pledge for bees is difficult; additional pledge is required for them that they pass not beyond the land which is nearest to them on every side, whether it be much or little; for it is according to the additional pledges that judgments are passed respecting their 'tairsce'-trespass, their crime, their produce, in the four lands which are nearest to them, *for* these are entitled to a share of their produce gratis after the periods of their exemption.

It is difficult, i.e., 'annsa em,' i.e. difficult. **Among additional pledges**, i.e., of all the relieving pledges which one pays, the most difficult is the relieving pledge which he gives for the bees, i.e. a pledge of two 'screpalls.'[1] **Is required**, i.e., that demands a relieving-pledge for them, though difficult i.e. a pledge of two 'screpalls.' **Beyond the land**, i.e. to the owners of the lands which are nearest to them on each side, at both sides and both ends of the land. **Whether it be much**, i.e. whether it be big or little, i.e. the land, or the bees. **For it is according to the additional pledges**, i.e. for it is upon giving the relieving pledge for them that judgment is passed on them. **Their 'tairsce'-trespass**, i.e. with respect to the feeding. **Their crime**, i.e. with respect to the blinding *of men or beasts*. **Their produce**, i.e. with respect to the swarming. **In the four lands**, i.e. for the people of the four lands which are next hand to them. **Are entitled**, i.e. these are entitled to get value for their 'deolaidh'-right or the value of 'deolaidh'-right is due to them without any price except consuming. **After the periods of their exemption**, i.e. after the particular time during which bees are in freedom (*exempt from fines*).

fence, for no fence can be put against them though they may commit trespasses of co-tenancy, and these are not the pledges that are forfeited therein, but the 'Cain Cuisc,' 'the longing of disease' and the 'ollabruig nai' for a period of three years; or, the pledge that is right here is one equal to the 'Cain Cuisc,' i.e. that 'smacht-fines of co-tenancy' should accumulate upon them after giving these pledges for them as well as for other animals; or, the 'Cain Cuisc,' 'the longing of disease' and 'ollabruig nai;' and that the three should be given to every land, or that only one of them should be given to every land, and that though great may be the number *of landholders* in each land, only this proportion is due to them all during the period of three years; and the first person who stands in need of them in the land is to get it, and though many in the land should stand in need of it at the same time, they can get only this proportion."

BEE-JUDGMENTS.
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Ar dlegait beich .iii. bliadan suire, cipe las naidgenetar; bliadain a dtuisten, blidain a seoil, bliadain a sil. Ni dlegait in cetardoit sin ni doib acht a chain cuisc, na allabrug naie, no miann ngalair, co teora bliadan a suire, cipe las a naithgeniter, ar o tha na teora bliadna suiri sin, is for rind oirggne focert na smachta so. Nochi acht ra soig ind oirngne, an ro saig bo co etrud for ingilt, ro saiġ in bech oc tecclamad a thoraid. O ta na teora bliadna, dlegait in cethardoit sin tire bes da nessom deolaid doib; ailit a saithib a cobdailib crich, ar in fulaing nech deolaid deolaid dia lailiu la Feine; ar isi trissintiu in so consodlaiter so chobdaili crich.

Ar dlegait beich .i. uair dleagaid beiċ beith re re tri mbliadan i saire. Cipe las naidgenetar .i. cibe lais i ngeinend siad gu aiṫ no gu eaḋa. Bliadain .i. in bliadain i tuisingend siad .i. in ced bliadain sin. Bliadain a seoil .i. bliadain i mi suaill dib, in bliaḋain tanaise. Bliadain a sil .i. in bliadain a siland siad, is an treas bliadain. Ni dlegait in cethardoit sin .i. no go dleagaid.

[1] *Their breeding.*—The age of the bee is estimated by German apiarians as one year, but Huish shows that a queen-bee lives sometimes four years. See *Huish*, "Nature, Economy, and Practical Management of Bees," 2nd edition, London, 1817, pp. 246, 248, 249.

[2] *According to the division of the land.*—Dr. O'Donovan remarks here:—

"From these texts and glosses it appears that the person who reared bees, was obliged after the third year to share their honey with the neighbours who resided in the four townlands lying around him in every direction, that during the first three years some of the honey was due to sick persons and to certain dignitaries, as an 'ollave'-poet, a bishop, a professor of literature, &c., who may live within or happen to be on a visit in any of the four townlands which were entitled to the produce of the bees.

The quantity of honey to be given out for these three classes of persons was proportioned to that produced by the bees. If the produce of the bees amounted to the full of a 'milch-cow vessel,' i.e. a vessel which when full a man of ordinary strength could raise to the height of his knee, they shall get half the full of an 'escra,' if they produce the full of a 'samhaisc'-heifer vessel, which a

BEE-JUDGMENTS.

For bees are entitled to three years' exemption, with whomsoever they are produced: the year of their production, the year when they are few, the year of their breeding.[1] *The people of* these four lands are not entitled to anything but according to the 'Cain Cuisc,' or 'allabrig naie,' or 'the longing of disease,' until the end of the three years of their exemption, with whomsoever they are produced, for from these three years of exemption out, it is according to the injury that these 'smacht'-fines are imposed. It is only as the injury requires, *for* as long as the cow requires grazing until milking time, so long does the bee require to gather its produce. From the three years out, the four lands that are next them are entitled to get a gratis *share*, they are entitled to *a share* of the swarms according to the divisions of the land, for no one *entitled to* a gratuity is liable to a gratuity to another with the Feini; for this is the third tribe-property which is divided according to the divisions of the lands.[2]

For bees are entitled, i.e. for *the owners of* bees are entitled to be a period of three years in exemption. **With whomsoever they are produced**, i.e. with whomsoever they are generated quickly or lawfully. **The year** *of their production*, i.e. the year in which they generate, i.e. the first year. **The year when they are few**, i.e. the year in which there are but few of them, i.e. the second year. **The year of their breeding**, i.e. the year in which they breed,[3] the third year. ***The people of* the four lands**, i.e. the people of

man can raise to his navel, they shall get one-third of an 'escra;' if they produce the full of a 'colpthac'-heifer vessel, which a man can raise as high as his loins, they shall get one-fourth of an 'escra,' if they produce a 'dairt'-heifer vessel, which a man can raise over his head, they shall get the one-fifth of an 'escra.'

[3] *The year in which they breed, the third year.* On this Dr. O'Donovan observes:—It is difficult now to determine what induced the author of this law to suppose that bees were three years old when they began to breed. The age of the bee is estimated by the German apiarians at one year, and they hold it as undoubted that the queen of the present year is not to be found in the hive the following year. The age of the common bee is estimated at one year, or one year and a half. But Huish shows that a queen-bee sometimes lives four years, and cites various writers who assert that they have seen hives which were ten, fifteen, and thirty years old; but he remarks that "it must not be supposed that in fixing the duration of a hive at fifteen or twenty

BEE-JUDGMENTS.

Luċt na ceaṫra fearand sin bis ímon doid ní eile doib. Acht a chain cuisc .i. aċt riagail na diġe cuisg .i. in ní astuigsa, ocus ní cíndeḋ fil ure, no go maḋ leithescra i lestar lulaici. Leithescra doib a lesdar lulaice tuargaib fear go glun; trian escra a leastar samaisce tuargaib fear go imlinn; ceathrama escra a lestar colptaige tuargaib fear go ara; cuicead eascra a leastar dairte tuargaib fear os a chinn. Na allabrig naie .i. daeṫain taisig na daime, .i. no ín ní da berar don ti as ollbriġ bis um anai, no brug ar annad ocus oll ar a doimne .i. in tollom gaise. .i. dia ti ollbrig a lan ai .i. rig no espcop no uasal nemead cena. No mian ngalair .i. no in mían do berar do in tan bi se í ngalar. Co teora bliadan .i. co ceand tri mbliadan bid beiċ i saeire .i. geni aile eistib aċt sin. Cip .i. cid. Na teora bliadna .i. otha na tri bliadna sin bid beiċ i saere. Is forrind .i. is don luċt foro roiċid ind a noirgne. Focert .i. ċuirtir in smaċt iseo. An ro saig .i. ind aired ro indsaiges seig. Ro saiġ in bech .i. ro indsaiġiḋ in comad cetna. O ta na teora bliadna .i. o ṫa na tri bliaḋna bid beiċ i saeire. Ailit a saithib .i. airiltnigid luct na criċe saiṫe do coibdeleguḋ doib. Ar ni fulaing .i. uair noċon imuilingend neaċ ní in deoladċaire, in naisciḋ, da ċeile. Deolaid .i. deolaid leis ar aba in cain cuisc ocus in miann galair no ind allabruiġ ne. Ar isi trissintiu .i. uair isi seo treas fine duċaiġ caenḟoḋailter fo ċoibdelegud na criċ.

Cobdaile saithe, ocus bretha bairr bunaid, ocus usci tuiridne tur críċa; air isuide ro suidiged gelfine ocus derbfine, iarfine ocus indfine hi fintedaib griain

years, it is not meant thereby to infer, that it is peopled with the same queen or the same bees during the whole of that time. A hive in this respect" (he continues) "may be compared to a city; the inhabitants who founded and built it are long since dead, but it still remains peopled by their descendants, and many perhaps have emigrated from it to form a colony elsewhere."

The same writer states that the bee is generally in its state of perfection from the 21st to the 23rd day; that the drove takes its flight usually about the 27th; the queen about the 16th. They are entirely suspended during the cold weather. *Huish*, 2nd Edition, p. 129.

"The young bee has no sooner emancipated itself from its cell, than the common bees flock around it, and with their proboscis cleanse it of any extraneous matter which it may have brought from its cell. At the same time, the young bee seems delighted with the attention which is shown it. It first tries its wings, then cleans its antennæ, and in a few minutes is in the fields gathering provision for the hive." *Huish*, 2nd Edition, p. 130.

"When a young queen-bee has emerged from her nymphal state, she is capable of laying eggs in the space of three or four days, and she would lay them if she

BEE-JUDGMENTS.

these four lands which are next to hand to them are not entitled to get anything else. But according to the 'Cain Cuisc,' i.e. but the rule of 'the drink from the hive,' i.e. the thing by which it is understood, and there is no limitation upon it, or, *according to some*, it is half a cup[1] out of a milch-cow vessel. Half a cup is due to them out of a milch-cow vessel which a man can raise to his knee; one-third of a cup out of a 'samhaisc'-heifer vessel, which a man can raise to his navel; one-fourth of a cup out of a 'colpthach'-heifer vessel, which a man can raise to his loins; one-fifth of a cup out of a 'dairt'-heifer vessel which a man can lift over his head. Or 'allabrig naie,' i.e. a sufficiency for the chief of a party *at a feast*, or what is given to the person who is of great power in science, or 'brug' for steadiness and 'oll' for his depth, i.e. the 'ollav' of wisdom, i.e. to whom great force comes from full science, i.e. a king, or a bishop, or any noble dignitary whatever. Or the longing of disease, i.e. or the thing which is given to him to satisfy his longing when he is in a disease. Until *the end of* three years, i.e. till the termination of three years bees are in freedom, i.e. without being subject to anything else *to be obtained* out of them, but that *before mentioned*. Cip i.e. cid. *From* the three years, i.e. from these three years during which bees are in freedom. According to the injury, i.e. it is for the people to whom they go, according to their injuries. Are imposed, i.e. this 'smacht'-fine is imposed. As long as *the cow* requires, i.e. as long as she requires. So long does the bee require, i.e. require the same length. From the three years out, i.e. from the three years that bees are in freedom. Are entitled to *a share* of swarms, i.e. the people of the land are entitled to a division of the swarm. For no one is liable, i.e. for no one is liable to *give* anything in gratuity *or* of grace to another. Gratuity, i.e. it is deemed a gratuity by him on account of the 'cain cuisc,' or 'the longing of disease' or the 'allabruigh ne.' For this is the third tribe-property, i.e. for this is the third tribe-property which is fairly distributed according to the division of the lands.

The distribution of the swarms, and the judgments of top *and* trunk of trees, and drawing water across lands . . . for in *respect of* this 'geilfine' and 'derbhfine,' 'iarfine' and 'innfine' are placed by the Feini

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had a particular establishment of her own independently of the mother hive, in which the young queens never possess the privilege of laying their eggs. She is, however, in a state qualified to place herself at the head of a colony disposed to share her fortunes. Such is the attachment of the bees for their queen."

"The first swarm that appears in the spring is always in part the produce of the eggs which were laid in the preceding year. These eggs have subsisted in the hive during the autumn and winter in the state of eggs fecundated by the drones. These eggs are not hatched until the return of the warm weather in April or May, and the drones which are the produce of these eggs as soon as they have quitted their nymphal state, fecundate the eggs, which the queen has already laid in the cells of the present year." *Huish*, 2nd Edition, pp. 190, 191.

[1] *A cup*, 'escra.' "Quoddam argenteum vasculum unde potentibus personis potus hauriri solet, quod Hibernicâ linguâ vocatur *escra*," vita Darercae.—(Brussells, MS. quoted by Dr. O'Donovan.)

la Feine. Ar isi breth bairr bunaid la Feine alidside cro ima torad, fobith snuad tire inidcuirethar a torad, ar dilsigthir barr bunaid a ttorad in cethramad bliadain do tir incuirither a dtorad.

Cobdaile saithe .i. saiṫi do cobdeileġuḋ doib .i. is in ceṫruṁad bliaḋain. **Bretha bairr** .i. in breaṫ ata itir ḟear bona in crainn ocus fear a ḃair. **Usci tuirione** .i. ocus in tuisce tairgiter tar na fearanndaib. **Air isuide** .i. uair is fo ċosmailus na aei eaḋa isin ro suiḋigeḋ. **Gelfine** .i. in tobor. **Derbfine** .i. in dire o tobur gu linn. **Iarfine** .i. in linn. **Indfine** .i. o linn sis. **Ni fintedaib** .i. i fine dindib in fearann da reir ind eneċais. **Ar isi breth** .i. uair is i seo breaṫ ata itir ḟear bona in crainn ocus fear a ḃairr do reir ind ḟeneċais. **Alidside** .i. airiltnigiḋ seisideig cro da ḋenaṁ im a ṫoraḋ. **Fobith snuad tire** .i. fon saṫ seanaich no ecoisc in tiri, in fearann ina da cuirenn se a ṫorud. **Ar dilsigthir** .i. uair dilsigiḋ fear ḃona in crainn toraḋ a ḃairr gaċ ceaṫramaḋ bliaḋain dḟir ind ḟearainn ina da cuiriter e. **Incuirither** [.i.] in barr.

Inna teora bliadna aile confodlaiter i nde eitir tir inidchuirither ocus tir asa nasa; cipe dallina inidicoimge, direnar leithdire dia railiu a besaib fid breth, fo suire cacha feda, amail ro suidiged la feine.

Mad tairbe, direnar fo tairdbe cach feda, co cenuil do, acht ni soerer nemed de.

Ata amser as coimdire tairddbe cacha feda fria bunebe; ata ind amser aile ni aile acht trian dire ina tairdbe.

Mad beich rogabat and, confodlat a torad eturru

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[1] *The embankment.* It is very difficult to decide whether the Irish word thus translated is 'dire' or 'dine.'

among the tribes of the land. For the judgment of top *and* bottom, according to the Feini, is that a fold is required about his fruit, because of the appearance of the land in which the produce is sown, for the bottom is entitled to the fruit of the top every fourth year, of the land in which the fruit is sown.

The distribution of the swarms, i.e. the swarms to be divided by them, i.e. in the fourth year. **The judgments of top**, i.e. the judgment that is *passed* between the owner of the bottom of the tree and the owner of its top. **Drawing water**, i.e. and the water which is drawn across the lands. **For in this**, i.e. for it is after the likeness of these they are placed. '**Gelfine**,' i.e. the well. '**Derbfine**,' i.e the embankment[1] from the well to the pond. '**Iarfine**,' i.e. the pond. '**Innfine**,' i.e. from the pond down. **Tribes of the land**, i.e. the tribes of the land according to the 'Fenechus'-law. **For the judgment**, i.e. this is the judgment that is between the owner of the bottom of the tree and the owner of its top according to the 'Fenechus'-law. **Is required**, i.e. he ought to make an enclosure about his produce. **Because of the appearance of the land**, i.e. because of the surface or aspect of the land, of the farm in which he sows his produce. **For** *the bottom* **is entitled**, i.e. for the owner of the bottom of the tree becomes entitled to the fruit of its top every fourth year; *i.e. it is due* to owner of the land in which it (*the tree*) is planted. **Is planted**, i.e. the top.

In the other three years it is divided into two *parts* between the land in which it is planted and the land out of which it grows; whichever of the two parties commits injury, he pays half 'dire'-fine to the other according to the customs of wood judgments, according to the rank of each tree, as it was established by the Feini.

If it be cutting, it is paid for according to the cutting of each tree, according to its kind, except what the 'nemedh' frees of it.[2]

There is a time when the cutting of each tree is liable to the same 'dire'-fine as cutting the trunk; there is another time when it incurs but one-third 'dire'-fine for its cutting.

If it be bees that have taken up *their abode* there, they divide their produce between them into

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[2] *Frees of it.* The words 'nemeꝺ ꝺe,' may also mean, a 'nemedh' of God, 'an ecclesiastical dignitary.'

BEE-JUDGMENTS.

i nDe co cenn teora bliadan; acht is i tire asa nasa in torad.

Inna teora .i. ina tri eile. Confodlaiter .i. is caéin foḋailtir ar do itir in fearand ana da cuirrind se a ṫoraḋ a bunad .i. in fearand asa nasand se; coṁroind ṫoraiḋ in croind ar do go ceand tri mbliaḋna, itir fear bona in crainn ocus fear a ḃairr, .i. ocus a ṫorad gaċ ceathramad bliaḋain dfir a bairr. Cire .i. cibe don da imad sin em cuiṁges .i. a leadraḋ. Direnar .i. eirnid side leiṫdire and dia ċeile. A besaib .i. a bais gnae no aibind breiṫeṁnais na feaḋ. Fo suire cacha feda .i. fo uaisliḋetaiḋ gaca feaḋa .i. gid fiadan gid cumra. Ro suidiged .i. aṁail ro suidiged e do reir ind enecais.

Mad tairbe .i. maḋ artimcell do neċar. Direnar .i. eirniter fo airdeibi gaċa feaḋa is comaiṫ cenél fir, ocus ni leatartar uile. Acht ni soeres .i. aċt inní soeras desin a ḃeiṫ conad fiḋ neiṁiḋ e uair noċon fo aigneḋ crainn ita ina inside, aċt fo aigneḋ graid in ti iga mid.

Ata amser .i. ita aimser is coṁdire ardtímceall gaċa feaḋa fria beim dia bun a lantimcell i mís marbdataḋ. Ata ind amser .i. ta aímser eile, ocus noco nairiltnigend se aċt trian dire .i. da trian na lantímceall i mis beoartaḋ, no trian a lantimċeall í mis ṁarḃdataḋ.

Ma beich .i. mad beiċ gabaid and. Confodlat .i. is cain ḟodaile a toraḋ na saiṫeḋ atoru ar do co ceánn tri bliaḋna. Acht is i tire .i. aċt agum is re ḟearaínd.

Fearaínd as an ḟasand se a bunud a ṫoraiḋ gaċ ceaṫraṁaḋ bliaḋain, go roind toraiḋ na mbeaċ ar do gu ceand tri mbliaḋan, itir ḟear ḃona ín ċrainn ocus fear a ḃairr; ocus a ṫoraḋ gaċ ceaṫraṁaḋ bliaḋain dir a ḃona, amail beres fear in bairr torad ín craínd gaca ceatramad bliaḋain, is amlaid sin beres fear bona ín crainn toraḋ na mbeaċ gac ceaṫramad bliaḋain. Co na

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[1] *A dead month.* That is, a month in which there is no vegetation.

[2] *If it be bees.*—See Huish on the rearing of bees in the trunks of trees. "In Poland the laws are particularly severe against robbers or destroyers of this property (*bees reared in the trunks of trees*), punishing the offender, when detected, by cutting out the navel, and drawing out his intestines round and round the very tree which he has robbed."

"Varro is the oldest who mentions hives as a receptacle for the bee; since his time the form, as well as the materials of them, has been much altered, and they are to be found of all sizes and forms in different parts of the world." *Huish*, 2nd Edition, p. 52. See also pp. 412, 413, 414.

two *parts* to the end of three years; but the produce belongs to the land out of which it grows.

Bee-Judgments.

In the ***other*** **three**, i.e. the other three *years*. **It is divided**, i.e. it is fairly divided into two parts between the land in which he sows his produce originally, i.e. the land from which it grows; the fruit of the tree is equally divided into two *parts* to the end of three years, between the owner of the bottom of the tree and the man who owns its top, i.e. and its fruit every fourth year to the owner of its top. **Whichever** ***of the two parties***, i.e. whichever of the two has injured *the tree*, i.e. by cutting it. **He pays**, i.e. they pay half 'dire'-fine to each other. **According to the customs**, i.e. according to the good or pleasant knowledge of the judgment of the trees. **According to the rank**, i.e. according to the nobleness of each tree, i.e. whether wild or sweet. **Was established** ***by the Feini***, i.e. as it was established according to the 'Feinechus'-law.

If it be cutting, i.e. if it (*the cutting*) be made all round. **It is paid for**, i.e. it is paid for according to the high cutting of each tree which is of equally good kind, but it is not cut all round. **Except what** ***the 'nemed'*** **frees**, i.e. but what is freed of it by its being a 'nemedh' tree, for it is not according to the nature of the tree that this is, but according to the nature of the grade of the person who possesses it.

There is a time, i.e. there is a time when equal 'dire'-fine is *paid* for high cutting the round of each tree, *and* for cutting it all round at the bottom in a dead month.[1] **There is a time**, i.e. there is another time, and it (*the cutting*) does not incur but one-third 'dire'-fine, i.e. two-thirds for its full round in a living month, or one-third for its full round in a dead month.

If it be bees[2], i.e. if it be bees that have taken up *their abode* there. **They ivide**, i.e. they fairly divide the produce of the swarms between them into two *parts* to the end of three years. **But the produce belongs to the land**, i.e. I make an exception as to the land.

It is to the land out of which it (*tree*) grows originally that its produce belongs every fourth year (until the produce of the bees is divided into two *parts* to the end of three years), between the owner of the bottom of the tree and the owner of its top; (and its produce every fourth year *is due* to the owner of the bottom, in the same way as the owner of the top gets the produce of the tree every fourth year), so the owner of the bottom of the tree obtains the produce of the bees every fourth year. This is when the

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"When bees were first cultivated in Germany, the hives consisted of excavated trunks of trees, which were placed perpendicularly in a row. In Spain they are formed to this day of an excavated trunk of box."

"In Russia the swarms are placed in earthen vessels, and in Provence and different parts of Italy, they are made of four planks well fastened together. In the latter country they are also made of the trunks of trees." *Ib.* pp. 52, 53.

BEE-JUDGMENTS.

finta fear bunaid ina mbeaċ ainsin; no go maḋ ar cuid fir in crainn da beṫ in comroinn sin, iar mbreiṫ dir bunaid a ċuid eiseib roime.

Fintiu griain i mbeċ brethaib issi sede fochosle a deirbfine, ar is i deirbfine i mbech brethaib tir bes da nesom fodaloing. Issed on ailes cet saithe deolaid dia teora mbliadan. Na teora cricha aile, crich dib bes da nesom, bes tech torad, iside beres tanaise. Mad comtecsi, ocus mad commaith a torad, focerdar crann etursu dus cia de beres tanaise, ocus mersaige; imana in cethramad crich conber cet saithe dia bliadain; acht dlegar donaib crichaib seo narre soirche focerdat in bech saithe, ar a mbe fer uaidib occa nimchomuet, ar na erlat a saithe; ar dia nerlat, ni dlegatsom somuine, ocus foloingatsom beochu co cend mbliadna aithirruch.

Fintiu .i. ata dutcus don ine a dualgus ind fearainn is na beaċaib do reir na mbreaṫ. Fochosle .i. is iside foxlas le e fo ċosmailius na deirbfine ar geiline. Ar is i .i. uair isi cosṁailius na deirbfine ar geiline i mbreiṫemnas na mbeaċ. Tir bes da nesom .i. in fearann is nesu doib, imuilnges iad. Issed on .i. isi sideig arultniges cedsaiṫe di indeoladċaire i cind tri mbliadan. Deolad .i. is e cuid in deolaid nuċun eigen di cranċur. Cricha aile .i. in criċ dib is nesu ocus is fearr toraḋ. Iside .i. isi side beres in saiṫe tanaise. Mad comtecsi, .i. mad comacraib iad ocus maḋ comaiṫ a toroḋ. Dus cia de beres .i. da is cia beres in saiṫe tanaise. Mersaige .i. cia beres in smersaiġe. Imana in ceathramad .i. eamnaiḋ in ceaṫramaḋ criċ gu mberend si ced saiṫe i cind bliaḋna ar tri bliadnaib, no i cind na bliaḋna sin fein. Acht dlegar .i. aċtaigim gu ndleagar do luċt na fearand sa na ree solustar i cuirid beiċ saiṫi uaiṫib. Ar

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[1] *To watch them.*—See Huish's Treatise on Bees, 2nd Edition, p. 192. "To guard against the fallacy of these signs, the most prudent method is to keep or appoint a regular watch, from the hours of 9 a.m., to 3 p.m. Many persons select children for this

original owner of the bees is not known; or, *according to others*, this division is of the share of the owner of the tree, the owner of the bottom having previously taken his share therefrom.

The tribe of the land in bee-judgments is like the 'deirbhfine,' for in the bee-judgments the land which is next to them and which supports them is the 'derbhfine.' It is entitled to the first swarm gratis after three years. *Of* the other three lands that land of them which is nearest, which is of best produce, shall get the second. If they are equally near and if the produce be equally good, lots shall be cast between them to know who shall obtain the second swarm and the 'meraighe'-swarm; the fourth land shall make its claim, and shall get the first swarm after one year; but these lands are bound in the bright times when the bees send out a swarm, to send a man to watch them,[1] that the swarm may not escape; for if it should escape, they shall not be entitled to profits, and they shall support the bees to the end of another year.

The tribe of the land, i.e. the tribe is entitled to a share in the bees, in right of the land according to the judgments. Is like i.e. it bears it away after the likeness of the 'deirbhfine'-division from the 'geilfine'-division. For it is i.e. for it is like the 'deirbhfine' over the 'geilfine' in the judgment as to bees. The land which is next to them, i.e. the land which is nearest to them, which sustains them. It is it i.e. this is that which is entitled to the first swarm gratis at the end of three years. Gratis, i.e. the force of 'gratis' is that it is not compulsory to cast lots. *Of the* other *three* lands, i.e. the land of them which is nearest and of best produce. It is it, i.e. it is it shall get the second swarm. If they are equally near, i.e. if they are equally near, and if their produce be equally good. To know who shall obtain, i.e. to know who shall get the second swarm. 'Meraighe'-swarm, i.e. who shall obtain the 'smeraighe'-swarm. The fourth shall make its claim, i.e. the fourth land sues until it obtains the first swarm at the end of the year after* three years, or at the end of that very year. Ir. on.
Are bound, i.e. I make a condition that this is incumbent on the people of these lands in the bright times[2] in which bees send out swarms. To send a

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purpose, who are often led away by trifles, and thus the swarm, the chief profit of the proprietor, is lost to him."

[2] *Bright times.*—The bees generally swarm from the hours of nine till three in May or June, in England. *Huish*, 2nd edition, p. 189.

a m-be fer .i. go rab fear uaithib aga nimcoimet. Ar na erlat .i. ar na ro elad na saith. Ar dia nerlat .i. uair dia nelad .i. in saith. Co cend mbliadna aithirrach .i. ar tri bliadnaib aṫarrai in saith.

Cid ro dera cond don duine sea dlegar in saiṫe do coimet fein, ocus cond dir cranno dlegar tis coimet in cranno. Is e fath ro dera, fer in cranno geibes dir na mbeach tis a beich do breiṫ leis, ocus coir gemaid he do ċoimetad do; fuid imorro, noca gabaid in duine sea dir in saithe a saiṫe do breiṫ leis, aiṫ co ro cairṫer he, ocus coir gemaḋ é féin do coimetad do.

Duine fein ocus beich aige, nochot millet beich ic lucht na fearand is nesa do. Ocus iseḋ dlegar de cain caisc, ocus mian galair ocus allabrag nae, do tabairt do lucht na ceṫru fearand is nesa do re re tri mbliadan; ocus comrand saithe doib is in cethramad bliadain; ocus is i comrand dlegar doib .i. cet saithe ocus tanaise ocus smeraige. Ocus in cruiċ dib is nesa ocus is ferr toraḋ is i beires cet saithe gan crandcar; ocus tanaisi ocus smeraige do breiṫ do na tri cruiċaib aile; ocus ma ta dibfide cruiċ is nesa no is ferr toraḋ a ceile, is tanaisi do breith di cen crandcar; ocus crandcar do cur itir na da cruich aile, ocus in ti dib da roaiṫ beich cain in bliadain sin is cet saithe do breiṫ di, ar is gen crandcar; ocus in cain caisc ocus in mian ngalair ocus in allabrag nae do tabairt do lucht na ceṫru fearand is nesa doibsium in bliadain sin; ocus ind uair bes aimser corra saithe doib is sed dlegar dir na mbech a focra doibsium neċ uaiṫib aca coimet ar na ra elat. Ma ra focairsium doib isseḋ dlegar dib a tabairt, ocus maine tugaid, da nelat na beċ, nocon fuil comrand saiṫi doib in bliadain sin. Mad indscaiṫid do neoch laiṫ na saiṫ, isseḋ dlegar cain caisc ocus mian ngalair ocus allabrag nae do tabairt doib re re tri mbliadan; ocus aenfeaiṫ cacha bliadain dlegar na neiṫe sin. Maine dearnosat indscaiṫid, aiṫ nocho nuil ni doibsium ainfide, ar iss uaiṫaḋ conairg frisochaide ced.

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[1] *The second.*—"A second swarm in this country is very seldom worth preserving through the winter, as the stock of honey which it collects is not sufficient to maintain it through a wild season." Huish, p. 210.

Marg. There is a note by the scribe here, partly illegible; he appears to have been Aodh, son of Concubar (Connor), son of Gilla na Naemh, probably, of the MacEgan family of Brehons.

man, i.e. that a man is *appointed* by them to watch them. **That it may not escape**, i.e. that the swarm may not escape. **For if it should escape**, i.e. for if they should escape, i.e. the swarm. **To the end of another year**, i.e. the swarm for three other years.

What is the reason that it is incumbent on this person to watch the swarm in this instance, and that it is the owner of the tree that is bound to mind the tree *in the case cited* below? The reason is, the owner of the tree obtains *leave* for the owner of the bees to take away his bees *in this case cited* below, and it is right that he (*the owner*) should mind them; but in this case, this man does not obtain for the owner of the swarm *leave* to take away his swarm, but that it be set, and it is right that he himself should mind it.

This is *the case of* a man who has bees, and the people of the lands next to him have not bees. And what is due of him is to give the 'Cain Cuisc,' the 'longing of disease' and 'allabrug nae' to the people of the four lands next to him for a period of three years; and the swarms are to be equally divided by them in the fourth year; and they are bound to make an equal division, i.e. *of* the first swarm and the second[1] and the 'smeraighe'-swarm. And the land of them which is nearest and of best produce shall obtain the first swarm without casting lots; and the second swarm and the 'smeraighe'-swarm shall be obtained by the other three lands; and if there be one of these lands that is nearer or of better produce than the others, it shall get the second *swarm* without casting lots; and lots shall be cast between the other two lands, and the one of them which happens to get nothing that year shall get the first swarm, for it is without casting lots; and that year it shall give the 'cain cuisc' the 'longing of disease' and the 'allabrug nae' to the people of the four lands nearest to it; and when it is time for their sending out a swarm, the owner of the bees is bound to give them notice to send one from among them to watch them (*the bees*) that they may not escape. If he has given notice to them they are bound to comply,[a] but if he has not been sent, *and* if the bees depart unobserved *and are lost*, there is no division of the swarms for them that year. If the owners of the swarms have gone away (*removed*), they are entitled to receive but 'cain cuisc,' 'longing of disease' and 'allabrig nae' for a period of three years; and once in each year these things are due. If they have not departed, there is nothing due to the others then, for it is *a case of* 'few prevailing over many.'

[a] Ir. *To give him.*

BEE-JUDGMENTS. Cach crich roucca a techta ni dligaide tairgille na smachtu, ar ised uatach in sain conoirg fri sochaid la Feine. Mad inscuchud, ni dlegar ni doib acht cain chuisce no miann ngalar no allabruig nae, ar dlegair doibseom iar naib teorai bliadnaib saire; is iar sen suid for a techta, cip dune lasain ba usu taurguille nairiu olldate smachta; is foma do cach recht oca mbet.

A techta .i. in saiṫi. Ni dligaide tairgille .i. geall da screaball. Na smachta .i. na saithe. Ar ised uatach .i. a aen ḟaite seoṁ i naigiḋ saiṫe imḋa ind ḟir eile. Mad inscuchud .i. mad reicreactar iad .i. urglan is an ceathramad bliaḋain. Ni dlegar .i. noco dleaġar ni eile doib do na cruchaib. Ar dlegair .i. uair dleaġar doib sin uaiṫib iar na bliaḋnaib imid i saeire. Is iar sen suid .i. iars an tres bliaḋain. For a techta .i. for in inscuchuḋ, no for in saiṫe. Cip dune .i. gib duine sis nad usu geall toruiṫneaċ, orro .i. geall da sgreball. Smachta .i. na saiṫe. Is foma .i. is fo a ṁaiṫ, no is foeṁta du gaċ ruct duine iga mid, no is rogo.

Is di ruidilsib i mbechbrethaib la Feine cipe forsa ruiret occa collud, occa cumscuchud, occa ngabail, occa ndecsin daro sortau in am in tochumlat. Etechta doib dan, cipe inruiret oc dul seccu iar na chonair, do neoch na dene olcc nach annreċt friu; ar is esede fuil ailes ailes said ind fir di mil forgaibther and, la fir o ta suidiu nad ro marb in bech rodmbi; ar ma ro marbthar sid, artet a cinaid amal cach.

Forsa ruiret .i. cneaḋ iga milleḋ no oca marbaḋ. Occa cumscuchud .i. as gaċ leastar do leastar. Occa ngabail .i. da barraib ocus do ṁaignib. Occa ndecsin .i. oga ndecsain dar a soistud. In am in tochumlat .i. is an re ḟuṫain ico nimluaidid

BEE-JUDGMENTS.

Every land which has given what is lawful is not bound to give additional pledge or 'smacht'-fines, for that would be[a] *a case of* 'the few prevailing over the many' with the Feini. If they depart there is nothing due to them but 'cain cuisc,' or 'longing of disease,' or 'allabruig nae;' for these are due to them after the three years of exemption: it is after this he sues for his right, whoever he be that deems it easier to give additional pledge than 'smacht'-fines; it is for the good of every kind of person who has them.

What is lawful i.e. the swarm bound to, and **additional pledge**, i.e. a pledge of two 'screpalls.' Or **'smacht'-fines**, i.e. for the swarms. **For that would be the few**, &c., i.e. his one swarm against the many swarms of the other man. **If they depart**, i.e. if they dispose of them by sale, i.e. utterly[b] in the fourth year. **There is nothing due**, i.e. nothing else is due to them from the lands. **For *these* are due**, i.e. these are due to them from the others, after the years during which they are in freedom. **It is after this he sues**, i.e. after the third year. **For his right**, i.e. for the departure, or for the swarm. **Whoever**, i.e. whatsoever person it be to whom it is easier to give a relieving pledge for them, i.e. a pledge of two 'screpalls.' **'Smacht'-fines**, i.e. for the swarms. **It is for the good**, i.e. it is for his good, or it is ceded to every kind of person who has them, or it is a choice.

Of the innate rights in bee-judgments with the Feini are *the cases of* those whom they may injure while they are being destroyed, or removed, or taken, *or* in being viewed over thy dwelling at the time of their swarming. It is unlawful for them if they sting anyone in passing by them on his path, who does not do them harm or any thing illegal; for this is the blood which is entitled to a full meal of honey for the man who was stung in this instance, with proof from him that he did not kill the bee which stung him; for if he has killed it, its crime will pass like that of every other *animal*.

Whom they may injure; *inflict* a wound in destroying or killing them. **Or removed**, i.e. from any one vessel (*hive*) to another. **Or taken**, i.e. from tops *of trees* or from precincts. **In being viewed**, i.e. in viewing them over his habitation. **At the time of their swarming**, i.e. at the particular time

[a] Ir. *Is.*

[b] Ir. *Quite clean.*

beiċ saite do cur gu toiċ no gu luaṫ. Etechta doib .i. is indliged doib gibe foro ro indsaiged ig dul seocu for in conair. Inruiret .i. in torbaċ gu narm. Na dene olcc .i. a marbta. Ann recht .i. aimdirgidetaid garti riu .i. bualad na ces. Ar is esede .i. uair is iside fuil aile saiṫ fir do mil inti. [Fuil, fotuinn.] Forgaibthor .i. for a tabar and in forgoṁ. La fir .i. la fir luiġe o naei ḟeaḋa [.i. luiġe a oenur] isin co nar marbastar se in beaċ ro gonastar e .i. fir fola no farraigte. Marbthar sid .i. amail in cuċ is diles in uair a fogla, no amail cach rob cetcintaċ, ocus ata dil in cinaid and.

Mad fuil ro chaecha, iss isidiu ailid co crann fors in lestrai naile, cip lestra dia thoch dib ar tet a fiach. Air is i cetna breth in ro cet araced im chinta bech for conall caech caechsite bech. Bach ri temrach comidubart arsa flaiṫ. Tobert a chin fors in fer batair bech, noch is i breth insa bretha la ultu ocus finiu imbi. Air iss isuidiu artet sochaaide cinaid noenfir nad foruchatatar uile, la Feine; amal mart forrecar la cona no mucca no cethrae, no fer gonair a acht sluaig mair, nachid la miter aurthuch na forthuch for nech sainderedach, direnar in fer uadaib uile, no do rochrathar uile indilse.

Mad fuil, .i. maḋ fuil caeċas siad. Iss isuidiu, .i. is an aei eaḋa isin airiltingiḋ se cur craind for na leastraib uile, .i. for na ceascaib. Cip lestra, .i. gibe leastar dib ṫoites and. Ar tet a fiach, .i. tuitid na fiaċ, .i. ceis isin caeċad sin na beiċ. Air is i cetna breth, .i. uair is i seo ced breaṫ rugad for conall do caeċadar. Bach ri temrach, .i. seiċim no indsaigim conad a rige tulaċ naibind do binse. Comidubart, .i. gur cuireḋ he ás a laiṫemnas. Tobert a chin, .i. tugaḋ a ċin fors an fear ag a rabadar beich ina

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[1] *Blood on the skin.*—It is doubtful whether the word "fotuinn," which is on the right hand margin of the page in the MS., was intended as a gloss on 'fuil.'

[2] *Conall Caech.*—For Congal's charges against Domhnall, King of Temhair, see Battle of Magh Rath, published by the Irish Archaeological Society, Dublin.

that the bees send forth swarms soon or quickly. It is unlawful for them, i.e. it is unlawful for them if they attack any one in passing by them on the way. They sting, i.e. the profitable worker with a weapon. Who does not do any harm, i.e. killing them. *Or* anything illegal, i.e. the illegality of stealing as regards them, i.e. to strike the hives. For this is *the blood*, i.e. for this is the blood which is entitled to as much honey as is sufficient for a man, i.e. blood on the skin.[1] Who is stung, i.e. on whom the stinging is inflicted here. With proof, i.e. with proof by oath from that particular individual, (i.e. oath by him alone), that he did not kill the bee which had stung him, i.e. a test of bloodshed or violation. *For if* he has killed it, i.e. like every *animal* that is forfeited at the time of its crime, or like every vicious beast of first crime, which is itself a sufficient payment for its crime.[a]

If it be an eye that has been blinded, it is then required that lots be cast upon all the hives, *and* on whichever of the hives it (*the lot*) falls, it shall pay the fine.[b] For this was the first judgment passed first concerning the crime of a bee in respect of Conall Caech,[2] whom a bee had blinded. The king of Temhair came and removed him from his kingship. He charged the man who owned the bees with the injury, and this is the judgment which was passed by the Ulstermen and the Feini respecting it. For it is in this instance, the many become accountable for the crime of one, although they all have not attacked, according to the Feini; as a beef which is torn by dogs or pigs or cattle, or a man who is wounded in the van[c] of a great army, when no test or proof is found against a particular person, the *'eric'-fine incurred by the one* man is paid by them all, or they all are forfeited.

If it be an eye, i.e. if it be an eye they have blinded. It is then *required*, i.e. in that particular case, it is required that lots be cast upon all the vessels, i.e. upon the hives. On whichever of the hives, i.e. whatever hive it (*the lot*) shall fall upon. It shall pay the fine,[b] i.e. the fine shall fall *on it*, i.e. the hive of which the bees have caused the blinding. For this was the first judgment, i.e. for this was the first judgment which was passed in respect of Conall whom they had blinded. The king of Temhair came, i.e. I insist or maintain that he dwells on a royal delightful hill. Removed him *from his kingship*, i.e. that he was deposed from his chieftainship. He charged with the injury, i.e. *the fine for* his injury was charged against the man who had *the* bees in his possession. This

[a] Ir. *And payment of its crime is in it.*

[b] Ir. *The fine goes upon it.*

[c] Ir. *At the breast*

BEE-JUDGMENTS. arrad. Noch is i brech, .i. seichim conad i seo breath rugad ag ulcaib ime. Air iss isuidiu, .i. uair is an ai eada isin, .i. don breath ocus don caechad tet itir sochaide, .i. in ces uili i cinaid in aenfir, .i. in aen bech. Sochaide, .i. in saighe no in ces. Noenfir, .i. in beaċ do roin in caechad. Nad forruchatatar, .i. ocus noċor fuachtnaigestar uili do reir ind ḟenechais. Amal mart, .i. amhail mart eirgitir go na conaib. No cethrae, .i. co na ceathraib. No fer gonair, .i. no in fear gontar a ucht sluaig moir, im cocrand, no cam tabairt cia dib; no conid dilesa a marbad itir ros ocus duine, iar nelod airt. La miter, .i. ocus noċo laimtenach. Aurthuch, .i. uasalteasctugad sena nach uataib do ronad. Forthuch for nech sainredach, .i. imdenamha for nec dib go sanradach. Direnar .i. icthar in fear uaitib uile on teluag, no o na roraib. Rochrathar .i. in raiti.

Ni asam for brithemnaib i mbeċ brethaib bech tetechta gaibte crann huasal nemid, nach ni asu a beim in crannd ro biṫ ind nemid, na asu dan a tuaslucud.

Dligid fer do daetet, bes bunadach doib, trian a dtorand co cend teora mbliadan, acht is ond nemud a nimcoimet; ocus is deolaid a trian tic fer mbunaid; a trian naill do nemud i suidigther; a trian naill do thir do melat. O tha na teora bliadna ni dlig fer in bunait cuit indib aċt smachta doneoch, ma ruasasat orggain a tire.

Ni asam .i. noco nusu lium i mbreitemnas na mbeaċ in ni sea nas ani romainn. Bech tetechta .i. beiċ teachtaid ait no aitte i mbun crannd uasal neimiḋ flata no eclasa. Nach ni asu a beim .i. noċon usu beim in crannd dia bun. Ro biṫ .i. ro daingin in neimid as a crand e. Na asu .i. noċon usu a tuaslugud as na mbeaċ.

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[1] *The tree.* Huish remarks that bees kept in an apiary in the vicinity of the woods, when they send forth their swarms, have always a propensity to lodge themselves in a tree, which is in their vicinity, because it is their natural and primitive habitation—2nd edition, p. 194.

Crevecœur thus expresses himself:—

"One of the problems most difficult to solve, is to know when the bees will swarm, and whether the swarm will remain in the hive provided for them, or

is the judgment, i.e. I maintain that this was the judgment which the Ultermen passed concerning him. For in this instance, i.e. for it is in this particular case, i.e. concerning the judgment and the blinding, it goes among the many, i.e. all the hive for the crime of the one man, i.e. of the one bee. The many, i.e. the swarm or the hive. Of the one, i.e. the bee which caused the blinding. They *all* have not attacked, i.e. they all did not attack *Conall* according to the 'Fenechus'-law. As a beef, i.e. as a beef which is found with the hounds. Or cattle, i.e. with the cattle. Or a man who is wounded, i.e. or the man who is wounded at the van of a great host, as regards casting lots, until it is determined which of them; or it is lawful to kill them, whether vicious beast or man, after eluding justice. *When no test or proof* is found, i.e. and when there is no proof positive. Test, i.e. noble testimony denying that it was by them it was done. Or proof against a particular person, i.e. a proof against one of them in particular. Is paid, i.e. the *crime of* the one is paid *for* by them all, *i.e.* by the host, or by the vicious beasts. Or they are *all* forfeited, i.e. the swarm *is forfeited for the crime of one bee.*

It is not easier for Brehons in bee-judgments to decide concerning bees that have taken up *their lodging* in the tree[1] of a noble dignitary, with respect to which it is not easy to cut the tree on account of the 'nemedh,' nor is it easy to release them.

The man who has watched them, who is their original owner, is entitled to one-third of their produce to the end of three years, but they are to be minded by the 'nemedh'-person; and the third which reaches the original owner is *as* a gratuity; the other third is due to the 'nemedh'-person in whose tree[a] they fix themselves; the other third is due to the land on which they feed. From the three years out the original owner is not entitled to any share in them except 'smacht'-fines, if they should come to trespass on his land.

[a] Ir. *With whom.*

It is not easier, i.e. I do not consider this easier in the judgments of the bees than what we have mentioned before.[b] Bees that have taken up, i.e. bees which have taken possession of a place or lodging in the tree of a noble 'nemedh,' of a chief, or of a church. It is not easy to cut *the tree*, i.e. it is not easy to cut the tree at its base. On account, i.e. on account of the 'nemedh' whose tree it is. Nor is it easy, i.e. it is not easy to release the bees therefrom.

[b] Ir. *The thing before us.*

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escape to establish themselves in the cavity of some tree; for when, by means of their emissaries, they have chosen themselves a retreat, it is not possible to retain them in any hive which you may select for them"—*ib.*, p. 194.

BEE-JUDGMENTS

Dligid fer .i. dligiḋ in fear bis ina coiṁideaċtetas beṫ ina comaiteċt. Bes bunadach .i. doneoċ is ear bunaid doib. Trian a dtoraid .i. trian a toraiḋ co ceand teora mbliaḋan dir na mbeaċ. Acht is ond nemud .i. aċtaigim is o neiṁed, o ḟir in craind, a nimcoimed ris in re sin. Is deolaid .i. is deoladcaire in trian tic dir bunaid; is e cuid in deolaiḋ, nucun eigen do a coimed. A trian naill .i. a trian eile do neiṁed i suidigtir no samaigtir iad .i. fear ind ḟearaind. A trian naill .i. ocus ni he in fad is beiċ feasa i mbun craind uasal neimid, ce airmither fri tir, ni si beres aċt isi nemead. Ni dlig fer .i. noċo dligend fer bunaiḋ cuid dib .i. fear na meaċ Acct smachta .i. na saite, no cain cuirc. Doneoch ma ruasasat .i. ini sin madia ro indsaigea siad dorgoin a fearaind, ma beat beach acasum dorgain in tire ele.

Beiċ easa i mbun craind uasal neimiḋ, da trian dir craind ann, ocus trian dir na mbeaċ gu ceand tri mbliaḋan, ocus is diles dir in craind iad o ta sin amaċ.

Beiċ cuntabartaċa i mun craind uasal neimid, teora ceaṫraimṫi ig fir in craind, ocus ceaṫraimṫe ag fir na meaċ gu ceand tri mbliaḋan, ocus is diles dir in craind iad o ta sin imaċ.

Beiċ easa a mbarr craind uasail neiṁiḋ, trian dfir in craind, ocus da trian dfir na mbeaċ gu ceand mbliaḋna, ocus is diles dfir na mbeaċ o ta sin amaċ iad.

Beiċ cuntabartaċa i mbarr craind uasal neimid, leaṫ dfir in ċraind, ocus leaṫ dfir na mbeaċ gu ceand mbliaḋna, ocus is diles dfir na mbeaċ iad o ta sin amaċ; no, gumad dfir in craind.

[1] *Known bees.* That is, bees which were watched when swarming, and identified in the tree of a dignitary.

[2] *To trespass.* Huish mentions cases of serious injury inflicted on animals by bees, when swarming, or being robbed.

"A man who did not perceive that he was in the vicinity of a hive on the point of swarming, tied his ass to a post; the hive swarmed, and fixed itself on the muzzle of the ass; the patience of the animal could not brook the strangers, and it began to rub its muzzle on the ground. The indignation of the swarm was roused, and the animal was so stung that it died in three days"—p. 192.

The Abbé della Rocca, relates a curious anecdote.

"A person, not very skilful in the management of bees, was appointed to deprive a hive of part of its honey, and in the operation he wounded the Queen bee. She immediately issued a most plaintive cry, and the bees attacked instantaneously all the spectators and the animals in the vicinity. A horse of the archbishop's was by chance tied to a tree contiguous to the apiary, and it was attacked with so much fury, that it broke the reins, and took refuge in a country

BEE-JUDGMENTS.

The man, &c., is entitled, i.e. the man who accompanied them *in their flight* and overtook them is entitled. Who is their original owner, i.e. who is their original possessor. One third of their produce, i.e. the third of their produce to the end of three years *belongs* to the owner of the bees. But by the 'nemedh,' i.e. I make a condition that it is by the 'nemedh,' by the owner of the tree, they are to be minded during this period. It is a gratuity, i.e. the third part which comes to the original proprietor is *considered* a gratuity; the force of the *word* 'gratuity' is, that he is not obliged to mind them. The other third, i.e. the other third *is due* to the 'nemedh'-person with whom they fix or settle themselves, i.e. the owner of the land. The other third, i.e. and it is not while they are known bees[1] in the trunk of the tree of a noble 'nemedh'-person; although they are accounted for the land, it is not it that gets *this third part* but it is the 'nemedh'-person. The original owner, &c., i.e. the original owner is not entitled to any share in them, i.e. the owner of the bees. Except 'smacht'-fines, i.e. the swarms, or 'cain cuisc.' If they should come, i.e. this is *so* if they should come to trespass on his land,[2] if they have bees to trespass on the other land.

As to known bees[3] in the trunk of the tree of a noble 'nemedh' two-thirds *of their produce are due* to the owner of the tree, and one-third to the owner of the bees to the end of three years, and they (*the bees*), are the property of the owner of the tree[4] from that out.

As to doubtful bees in the trunk of the tree of a noble 'nemedh,' three-quarters of their produce *are due* to the owner of the tree, and one-fourth to the *doubtful* owner of the bees to the end of three years, and they belong to the owner of the tree from that out.

As to known bees in the top of the tree of a noble 'nemedh,' one-third *of the produce* is due to the owner of the tree, and two-thirds to the owner of the bees to the end of a year, and they belong *exclusively* to the *original* owner of the bees from that out.

As to doubtful bees in the top of the tree of a noble 'nemedh,' one-half *their produce is due* to the owner of the tree, and one-half to the owner of the bees to the end of a year, and they belong to the owner of the bees from that out; or *according to others*, it is to the owner of the tree *they belong*.

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house, but the bees pursued it with so much acrimony, that it mounted the stairs of the first story, and burst into a room full of company, to whom it was no doubt an unwelcome visitor"—p. 191.

[3] *Known bees.* This commentary is found on the lower margin of the MS., p. 23, and that which follows, on the top margin of same page.

[4] *Owner of the tree.* Huish says that in Poland the inhabitants have no regular bee-hives; and he adds, "Every peasant who is desirous of rearing bees, goes into the forest or district belonging to his master, without even his leave, makes a longitudinal hollow aperture or apertures in the trunk of a tree, or in the collateral branches, about three feet long, one foot broad, and about a foot deep, into which he

BEE-JUDGMENTS.

Beiċ easa i mbun craínd isil nemiḋ, leaṫ dḟir ín craind, ocus leaṫ dḟir na mbeaċ gu ceand tri mbliaḋan, ocus is diles dḟir in craind iad o ta sin imaċ.

Beiċ cuntabartaċa i mbun craind isil neímiḋ, ocus leaṫ ocus octṁaḋ ig fir ín craind, ocus leaṫ genmoṫa octmaḋ ig fir na mbeaċ gu ceand tri mbliaḋan, ocus is diles dir in craind o ṫa sin amaċ.

Fer o nelat beiċ imaig is dir tic seo. In tan atber, cin bech cin con, cin cethra, imdala in chrandchair sin nama, ocus nagu nimdala ċomċinad do beith doib fo chutrumma.

Ni asu araile bech tectaechta gaibte barr nemed, no maigin, no brat scartha; ar cain dimet ind nemid ni do dauret, acht .uii. neludaig do chuisin la Feine, na dim nemed de na duine; bech do coislet, ocus taid cu foindil, ocus eolodaig fine, fer airm deirig, ben aslui a cain lanamna, ocus ben no fer aslui gairi a mathar no athar, inge mad neċ na dama coir iar seta taide; cid eside ni dim nemed de na duine in neoch ma ḟofaccbat duine oirngne dies fri mbi coir do tintuch.

Beich tetechta gaibte barr nemid, no maigin, no

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deposits his bees, leaves them some food, but pays very little further attention to them, until late in the autumn. When after cutting out some of their honey, and leaving the remainder for their maintenance, he secures the aperture properly with clay and straw against the frost and inclemency of the approaching season. These tenements, if they may be so called, with their inhabitants, and the produce of their labour, then become his indisputable property: he may sell or transfer them; in short, he may do whatever he pleases with them; and never is it heard that any depredation is committed on them, except by the bear.—Vid. note[2], p. 170, *supra*.

As to known bees in the trunk of the tree of an humble 'nemedh'-person one-half *their produce is due* to the owner of the tree, and one-half to the owner of the bees to the end of three years, and they belong to the owner of the tree from that out.

BEE-JUDGMENTS.

As to doubtful bees in the trunk of the tree of an humble 'nemedh'-person, one-half their produce and one-eighth *go* to the owner of the tree, and one-half, except one-eighth to the owner of the bees to the end of three years, and they are the property of the owner of the tree from that out.

To the man from whom bees have escaped abroad this properly applies. When it (*the law*) says "the crime of bees, the crime of hounds, the crime of cattle," this has reference to the casting of lots only, and not to the co-balancing of crimes between them in equal proportion.

It is not easier in this other case *to decide* concerning bees that have taken up their lodging in the top *of the tree* of a 'nemedh'-person, or in the field, or on the spread sheet; for the 'nemedh'-person well protects what comes to him, except seven fugitives, mentioned by the Feini, which the 'nemedh' of God[1] or man[2] does not protect: bees that have migrated, and a wandering thief, and a fugitive from the tribe, a man who has stained his weapon with blood,[a] a woman who has fled from her matrimonial contract, and a woman or man who has fled from maintaining his mother or his father, unless he (*the father*) is a man who has not ceded justice after he has stolen goods;[b] for with respect to this no 'nemedh'-person of God or man protects the man who has left plunder behind him which should have been returned.

[a] Ir. *A man of a red weapon.*

[b] Ir. *After 'seds' of theft.*

As to bees that have taken up their lodging in the top of *the tree of* a 'nemedh'-person, or in a field,

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[1] '*Nemedh*' *of God*, i.e. the ecclesiastical dignitary.

[2] *Of man*, i.e. the lay chieftain.

BEE-JUDGMENTS.

brat fearrtha, ailid nemed trian torad co cend mbliadna, in da trian aile do fir dodaeted bess bunaidach doib, acht is o fuidiu a nimcomet, ar is deolaid a trian tice an nemed.

Ni asa .i. no comsa a chéile, gne eile, no in hesa in ni seo. Tectaechta .i. beich teachtaid ait no airde, na in ni fomainn. Dars nemed .i. traind uasal nemid. No maigin .i. ar na muigib aimsich. No brat fearrtha .i. no brat do sguledh ar a caid, ocus fair tairisit. Dimet .i. aisnedh leat co noitnetid in nemed na ni tic caige for a comarsa. Acht .uii. .i. na .uii. neich elaid aid, do cain indeasa no indisin ind feinechais. Bech do coisles .i. fodlaid amach .i. tochaislait uad. Taid cu foindil .i. in gadaige .i. in ti bis for fuinelaid gan indile, amail cona, as gach maid i [illegible]. Eolodaig .i. in ti elos co [illegible] a dliged coirsa fein. Fer airm deirg .i. fear deargas a claideb isin tuath iarsin marbad derga. Ben aslui .i. in ben elas a riagail na lanamnais. Ben .i. ingen. Fer .i. mac. Mathar .i. don [illegible]. No athar .i. don is.

Ma ta teaccasgaid ar a claraid no ar caelach na caille, ocus nochon uil for a beachaib, is beich easa i mbun trainid isil neimid do riagail sin. Ma ta teaccasgaid for a beachaib ocus nochon uil ar a claraid no for a caelach, is beich [illegible] i mbarr trainid isil neimid da riagail sin.

Isead is bun ann, gach uair nach fetar a neacairsgaradh gan leadradh in trainid. Isead is barr ann, gach uair ba fetar a netairsgaradh gan leadradh in trainid.

Comraind tri mbliadan for b[eachaib] bona uasal, ocus comraind bliadna for beachaib barr. Ceathrumaide a [illegible] beires [illegible] o fir beach dosiges, gid i mbun gid i mbarr gabait.

Gaibte barr .i. gabait i mbarr trainid uasal nemid. Ailid nemed .i. [illegible] in neimed, gach a trainid, trian a toraid go ceand mbliadna: [illegible] cend tri mbliadan each tegaid amach in tan is bun gabait: co ceand [illegible] mbliadna each tegaid amach ocus is do

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¹ By killing.—A word in the gloss here is illegible.

or on a spread sheet, the 'nemedh'-person is entitled to the third part of the produce to the end of a year, the other two thirds *are due* to the man who caught them *and* who is their original proprietor, but they are to be minded by him, for the one-third given to the 'nemedh'-person is a gratuity.

It is not easier, i.e. this other case is not easier; another version, or this thing is not easier. Their lodging, i.e. bees that have taken possession of a place or habitation; *this is not easier* than the case before us. Top *of the tree* of a 'nemedh'-person, i.e. of the tree of a noble 'nemedh'-person. Or in the field, i.e. in the fields abroad. Or the spread sheet, i.e. or a sheet which was spread out[a] before them, and on which they rest. Protects, i.e. be it told by thee that the 'nemedh'-person protects the thing which comes to him under his protection. Except seven, i.e. the seven things which abscond, *and* which the 'Finechus'-law mentions or recites. Bees that have migrated, i.e. that have fled away, i.e. that have gone away from him. A wandering thief, i.e. the stealer, i.e. the person who is wandering without cattle, like a *stray* hound, from one place to another. A fugitive from the tribe, i.e. the person who absconds with cattle from the law of 'Cōrus-fine.' A man of a red weapon, i.e. a man who reddens his sword in the territory by killing.[b][1] A woman who has fled, i.e. a woman who runs away from the rule of matrimony. A woman, i.e. a daughter. Man, i.e., a son. Mother, i.e. of the woman. Or father, i.e. of the man.

[a] Ir. *Loosened.*

[b] Ir. *After the red killing.*

If his trunks or branches of the wood have been appropriated, and his bees have not, they are regulated by *the case of* "known bees[2] in the trunk of a tree of an humble 'nemedh'-person." If his bees have been appropriated, and his trunks or branches have not, they are regulated by *the case of* "doubtful bees in the top of the tree of an humble 'nemedh'-person."

"Trunk" means, whenever they cannot be separated without tearing the tree. "Top" means, whenever they can be separated without tearing the tree.

A division for three years is always made of "trunk" bees, and a division for one year of "top" bees. Doubt always deprives the possessor of the bees of one-fourth of his share, whether they take up *their position* in the trunk or in the top.

***Bees* that have taken *up their lodging in* the top, i.e. they take a position in the top of the tree of a noble 'nemedh'-person. The 'nemedh'-person is entitled, i.e. the 'nemedh'-person, the owner of the tree, is entitled to one-third of the produce to the end of a year; when they take up in the trunk, he shall have the third of each produce till the end of three years; to the end of three years each produce**

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[2] "*Known bees.*"—See p. 183, *supra.*

barraib. Da trian aile .i. in da trian eile don fir bis ina coiṁideaċt. Bess bunaid .i. da neoċ is fear bunaid doib. Acht is o suidiu .i. aċtaigím o nai eaḋa isin a nemcoímed sus in re sin .i. o fir banaiḋ. Ar is deolaid .i. uair is a neoladcaire ín trian tic don ínad .i. dir in crainḋ; is e cuid ín deolaiḋ, noċon eigen do coiṁed.

De fuillemaib geall.

Bretha bairr ocus maigne di neoch do etegar, acht airddnemed; ailed son cethramthain a toraid co cend mbliadna, neoch mani ro oiscet crich, air ddligid caċ tir autsad dineoch suidigthir fris.

Bretha .i. breiṫemnas so do berar itir barr in isil neimiḋ ocus maigne in isil neimiḋ, ocus fear bunaiḋ na mbeċ. Bairr .i. for barraib crand na nisel .i. na ngrad Feine. Maigne .i. for na muigib imuig. Di neoch .i. dí neoċ a teagear daiġ dib go aith .i. do neoch dib dochum a ninaitcither a tiaċtain. Etegar .i. do inċuitchet. Acht airddnemed .i. aċt in neimeḋ ard, nocon eiseig a deirim. Ise cuid ind aċta and, uair in ceaċraimte bias doib side .i. in tisil. .i. ini do berar don uasal neimid ar gabail a mbarr a craind ised on do berar do na gradaib ata isli ar gabail a mbun crainn. Ised on is don do maigin ind isil, mad beiċ cuntabartacha, .i. da trian don fir amuig, daiġ is maigen isil is in rann is nesam teit.

Beiċ easa i mbarr craínḋ isil neimiḋ, ceaṫraímṫe ig fir in crainḋ, ocus teora ceatraimṫe ig fir na mbeaċ gu ceand mbliaḋna, ocus is diles dir na mbeaċ iad o ṫa sin amaċ.

Beiċ cuntabartaċa i mbarr craínḋ uasal neimiḋ, leaṫ geinmoṫa in seiseḋ rand dec ig fir ín craínḋ, ocus leaṫ ocus seiseḋ rand deg ig fir na mbeaċ gu ceand mbliaḋna, ocus is diles dír na mbeach iad o ta sein imaċ; no, gumad ag fir ín crainḋ.

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[1] *Of the increase of pledges.* This heading is more modern than the rest of the tract, and by a late hand apparently.

[2] *Are seen to come.* The second gloss is by another scribe, and so are several more in the tract.

abroad, when it is in the tops *they settle*. The other two-thirds i.e. the other two-thirds *go* to the man who has accompanied them. Original proprietor, i.e. the person who is their original owner. But they are *to be minded* by him, i.e. I make a condition that it is by this man they are to be minded during thi period, i.e. by the original proprietor. For it is a gratuity, i.e. it is as a gratuity the third which becomes *due* to the place is considered, i.e, to the owner of the tree; the meaning of 'gratuity' is, that he is not obliged to mind them.

BEE-JUDGMENTS.

OF THE INCREASES OF (*interest on*) PLEDGES.

In judgments concerning[a] *tree*-top and field to which they (*bees*) migrate, except *in case of* a high 'nemedh'-person; they (*the owners*) are entitled to the fourth of their produce to the end of a year, unless they migrate from the territory, for every land in which they settled is entitled to a share.

[a] Ir. *Of*

Judgments, i.e. this is a judgment which is passed between the top *of the tree* of an humble 'nemedh'-person, and the field of an humble 'nemedh'-person *on the one side*, and the owner of the bees *on the other*. Of top, i.e. on the tops of the trees of the humble '*nemedh'-persons*, i.e. of the Feini grades. Of field, i.e. on the fields abroad. To which *they migrate*, i.e. to which a swarm of them migrates quickly, i.e. to whichever of them they are seen to come.[2] Migrate, i.e. to which they remove. Except of a high 'nemedh'-person, i.e. except the high 'nemedh'-person, it is not he that I mention. The force of the 'except' here is, because it is the fourth part these get, i.e. the humble '*nemedh'-person*, i.e. what is given to the noble 'nemedh'-person for *bees* taking up in the top of his tree is the same that is given to the grades that are lower for their taking up in the trunk of a tree of theirs. This also applies to the field of the humble '*nemedh'-person*, if they are doubtful bees, i.e. two-thirds *go* to the man outside (*the claimant*), because it is the field of an humble '*nemedh'-person* it passes to the next division.

As to known bees in the top of the tree of an humble 'nemedh'-person, the fourth part *of their produce* belongs to the owner of the tree, and three-fourths to the *original* owner of the bees to the end of a year, and they are the property of the owner of the bees from that out.

As to doubtful bees[b] in the top of the tree of a noble 'nemedh'-person, one-half *of their produce* less by one-sixteenth belongs to the owner of the tree, and one-half and one-sixteenth to the owner of the bees to the end of a year, and they are the property of the owner of the bees from that out; or, *according to others*, they belong to the owner of the tree.

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[b] *Doubtful bees*, i.e. apes quorum de proprietate non satis constat.

Cethramthain .i. inund seo ocus beiċ fesa i mbarr crainn isil neimiḋ. Neoch mani ro oirset .i. inni isin, mani ro indsaige siad i crich eile, no do cum a criċe budein; aċt a mbeṫ isin crand, as in crand, is ann ata sin. Mani ro oirset .i. mana elat as a tir sim gin a tarraċtain ann; dia nelat, ni dlig sim ni. Air dodligid .i. uair dligid gaċ fearand dib sin aidi sdaid do do neoċ suidigter no samaigter illeaṫ ris, .i. inann so ocus beiċ fesa a mbarr craind isil neimid.

Fer metet saithe na bi lais co finnathar maigin in suidegetar, trian di thir fris a suidigethar, trian do fir do daetet, trian do lestur o at elat bes bunadach doib.

Fer o a nelat bech rochlamethar forgull motat in saithe hi tir a chele in mbuithib cor a saithe. Confodlat eturru in de in saithe sen cach torad co cenn teora mbliadan, acht is in tire insuidigther as coir bunad a tuisten.

Fer metet .i. fear meitces no comaitches saite na bi leis budein. Co finnathar maigin .i. gu finnan se in tinad i suidigend siad. Trian di thir .i. beiċ ḟeasa i mbarr craind uasal neimid sin, ocus trian do ḟir in craind, ocus da trian do ḟir na mbeaċ, ocus leaṫ a ċodach o ḟir na mbeaċ ar tobach as in ceaṫramaḋ crich nimdeirg gen gabail mara; ocus .gid leath e is trian, ocus gid trian is leaṫ. Trian do fir do daetet .i. trian don fir bis ina coimitecht, ocus ni he in faṫ, aċt ar a tobaċ .i. leaṫ cota fir bunaid do ar a lenmain, Trian do lestur .i. trian do na leastraib o nelan siad. Bes bunadach .i. dineoch is fear bunaid doib.

Fer o a nelat bech .i. seiċim no inḋsaiġim conaḋ laiṁtinaċ leis foirgell imḋenṁa conaḋ leis ín saiṫi ra inaitcestar i fearand neiċ eile. In mbuithib .i. indbaiḋ do cuirestar a ḃeiċ sium in saiṫe as and riṫ in saiṫe amuiċ. Confodlat .i. fodailet eaturru an ḋo ín saiṫi sin, in nemead ocus fear in bunaid, uair is cuintabairt. Cach torad .i. a toraḋ gu ceand tri mbliaḋan.

[1] *Known bees*, i.e. identified bees.

[2] *It is one-half.* If the owner of the bees is entitled to half their produce when they fled away, the levyor is entitled to one-third of that half; but if the owner is only entitled to one-third, the levyor gets one-half of that third.

The fourth, i.e. this is the same as known bees in the top of the tree of an humble 'nemedh'-person. Unless they migrate, i.e. this is the case, unless they passed into another territory, or into their own territory; when they were in a tree, out of a tree, it is then this is the case. Unless they migrate, i.e. unless they escape out of his (*the 'nemed'-person's*) territory without being overtaken; if they *so* escape, he (*the nemedh-person*) is entitled to nothing. Is entitled, i.e. for every land of those in which they fix themselves is entitled to whatever has been ordained or settled respecting it, i.e. this is the same as *the case of* "known bees in the top of the tree of an humble 'nemedh'-person."

As to a man who watches a swarm which is not his own, until he discovers the place where they settle, one-third *of the produce is due* to the land in which they settle, one-third to the man who has watched them, *and* one-third to the hive from which they have fled, *and* which is their original one.

A man from whom bees escape can offer proof that he observed the swarm in the land of his neighbour at the time of the departure of his own swarm. They divide that swarm in two between them *as to* every produce, until the end of three years, but the right to their young offspring belongs to the land in which they settle.

A man who watches, i.e. a man who has observed or watched a swarm which is not his own. Until he discovers the place, i.e. until he learns the spot in which they settle. One-third to the land, i.e. these are known bees[1] in the top of the tree of a noble 'nemedh'-person, and one-third is due to the owner of the tree, and two-thirds to the owner of the bees, and one-half of his share *is taken* from the owner of the bees for levying in the fourth unfriendly territory, without an arm of the sea *intervening;* and though it be one-half *that is due to the owner of the bees*, it is one-third, and though one-third, it is one-half.[2] One-third to the man who has watched them, i.e. one-third to the man who has accompanied them, and this is not the cause, but *he gets it* for levying, i.e. half the share of the original owner *is due* to him for following them. One-third to the hive, i.e. one-third to the hives from which they escape. Which is their original one, i.e. which belongs to their original owner.

A man from whom bees escape, i.e. I maintain or insist that he can offer evidence of proof that the swarm is his, which he watched into the land of another person. At the time, i.e. it was at the time when his bees were sending forth their swarm that the other swarm ran away. They divide, i.e. the 'nemedh'-person, and the original owner divide that swarm between them into two parts, because there is a doubt. Every produce, i.e. its produce to the end of three years.

Acht is in tire .i. aċtaiġim, is oc fir ind ḟearaind i suiḋigter no samaigter iad is coir in tuisti sin da beiṫ; a bunuḋ fear in craind.

.i. No laimether raḋ co ndechatar a beich isin tir, ocus ni laimethar forgell ar imtis na beich ro ċuadar uaḋ sainreḋ; is aire is leaṫ isin, ocus is a mbun mbarr isil neimid, no sa mbarr uasal neimid, leaṫ do daig isit beich chuntabarta; is in rainn is nesam do do ċuaiḋ la cundtabairt.

Mad airm i mbi immed mbech nochar rulla saithe cacha lestair, nach laimethar nech lui gu bed lais motat saithe doeit hi thir comaithich bes comoccus doib uile, confodlat eturru uile lethorud in taithi sen co cenn teora mbliadan, a lethorad naill hi tir i suidigther, in na laimther forgull na airthiuch bid nech intainrudach.

Mad airm .i. imid beich imda. **Nochar rulla** .i. seiċim no indsaiġim gur ela saite asa gaċ leastar dib.

.i. Leastair ilarḋa do badar imuig and sin, ocus ro elo saite as gaċ leastar dib, ocus friṫ saiṫe dib i fearand in comiċig is coṁacraib doib, ocus noco neas coich dib he, ocus beich easa i mbun craind isil neimid iad, is leath dir craind, ocus a leaṫ doibrium uile, ocus comraindet e fo comairde.

Lui gu bed .i. a luiġi gonad leis in saiṫi ro aitcestar a fearand in coiṁitig is comogos doib uile. **Confodlat** .i. is caein fodailid na comaithig aturru uile leaṫ toraḋ in ḟaite gu ceand tri mbliaḋan. **Lethorud** .i. leaṫ toraḋ eile. **Hi tir i suidigther** .i. is re fear ind fearaind i suidigter no samaigther he, .i. do barr nemid uasail, uair is cuntabairt; ocus roinn ar do a ṫoraḋ eturru co cenn tri mbliadan, ocus a mbreiṫ dir craind o ṫa sin amach. **In na laimther** .i. noċo laiṁtinaċ leo foirgell imdenṁa na uasal teastuġuḋ sena coniḋ re neaċ dib e gu sunrudaċ. **Forgull** .i. o na comichib. **Na airthiuch** .i. o fir bairr.

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[1] *By doubt.*—If the man who claimed the bees could prove that they were his, he would be entitled to one-half their produce; but when he could only show a probable reason that they were his bees, he is only entitled to one-third of their produce; i.e. he goes from half to the next division, i.e. one-third in consequence of the doubt.

[2] *Known bees;* i.e. it is known to what apiary they belong, although the particular hives from which they migrated have not been identified.

But it is in the land, i.e. I make an exception, that it is the owner of the land in which they settle, or are arranged, it is right that these swarms should belong; the original (*stock*) *belongs to* the owner of the tree.

That is, he dares to say that his bees went into the land, but he dares not to offer evidence as to *these being* the particular bees which escaped from him; this is the reason that it is one-half (*that is due to him*), and it is in the trunk of the tree of an humble 'nemedh'-person, or in the top of the tree of a noble 'nemedh'-person, that one-half is due to him because they are doubtful bees. He goes to the next division to it by *reason of the* doubt.[1]

If it be *in* a place where many bee-hives[a] are *kept*, that a swarm has flown from each hive, and he (*the claimant*) dares not swear that the swarm is his which he found in the land of the neighbour who is nearest to them all, they (*the neighbours*) all divide between them half the produce of that swarm to the end of three years, the other half of the produce *is due* to the land in which it (*the swarm*) settles, in *respect of* which one dares not *to give* evidence or test that it belongs to any one in particular.

If it be *in* a place, i.e. where many *hives of* bees (*a large apiary*) are *kept*. That *a swarm* has flown, i.e. I maintain or insist that a swarm has flown from each hive of them.

That is, there were many hives abroad then, and a swarm escaped from each hive of them, and a swarm of them was found in the land of the neighbour who is nearest to them, and he does not know to which of them it belongs, and they are known bees[2] in the trunk of the tree of an humble 'nemed'-person, one-half is *due* to the owner of the tree, and the other to all the others, who divide it in equal proportions.

Swear that it is *his*, i.e. to swear that the swarm is that which he watched *and traced* into the land of the neighbour who is equally near to them all. They *all* divide, i.e. the neighbours fairly divide between them all the produce of the swarm to the end of three years. The half produce, i.e. the other half of the produce. The land in which it settles, i.e. it belongs to the owner of the land in which it is fixed or settled, i.e. in the top of the tree of a noble 'nemedh'-person, for it is a *case of* doubt; and the produce is divided in two between them to the end of three years, and the owner of the tree shall have them (*the bees*) from that forth. In which one dares not, i.e. they do not presume to proffer evidence of proof or noble testimony of denial that it (*the swarm*) belongs to one of them in particular. Evidence, i.e. from the neighbours.[b] Or test, i.e. from the owner of the top *of the tree*.

[a] Ir. *Bees.*

[b] Ir. *Co-tenants.*

BEE-JUDGMENTS.
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Fer fongaib frith mbech hi faithchi techtai. Issi in faithċi techta la Feine ni ro saig guth cluicc no gairm cailig cercc. Ailid cethramthain a thoraid co cenn mbliadna do fir fodgaib, na teora cethramtain aile do faithċi hi fogbaither.

Faithċi techta, .i. ind oired ro índsaiġes guṫ ín cluig do eclais .i. faiċe frite na mbeċ. Gairm cailig .i. do bruigaid ocus fileḋ. Ailid .i. airiltnigid se ceaṫraimṫe a ṫoraiḋ gu ceand mbliadna don fir do geib he .i. maine mo na trebaire bliaḋna uil acu, is ceaṫraimṫe dir riṫi, ocus masa mo, is leṫ. Do faithċi .i. do fir na faicṫi i. faġabar he.

Tri bruige rig, rot, ocus dirainn, ocus muir. Trian do do nech do cuirither muir, ocus nomad do a cuit rithe a cele doneoch fogaib a ndirainn. Dileas do dan do neac fogabar for rot, aċt cuit frithe do nech fogaib, man feastar fear bunaid.

Fear fongaib crann mbech hi faithchi techtai; mad iarmota bliadain, leth do fir fodngaib, leth naill do faithchi hi fogabar.

Fer fogaib frith mbech in neoch mad sechtar faithchi co ruicce rud mar, no ecmacht, no dirainn, trian do fir fodngaib, da trian do tir hi fogbaiter.

Fer fodgaib frith mbech hi rud, no dḟirainn, no ecmacht, is diles dosuidiu, ar is oen ruidles la feine, acht cuit naige fine, ocus cuit neclaise fris a mbi audacht, noch issi a cuitside trian as cach triun, ar

Of a man who finds a stray swarm of[a] bees in a lawful green. The lawful green with the Feini is the space as far as the sound of a bell or the crowing of a hen-cock is heard. The fourth of the produce to the end of a year is due to the man who finds them, the other three quarters to the green in which they are found.

Lawful green, i.e. the space which the voice of the bell reaches for a church, i.e. the green in which the bees are found. The crowing of a cock, i.e. for the 'Briughaidh'-farmer and the poet. Is due, i.e. one-fourth of the produce to the end of a year is due to the man who finds it, i.e. if they have not more than the security of a year, it is one-fourth that is due to the finder, and if they have more, it is one-half. To the green, i.e. to the owner of the green in which it is found.

The three commons of a king are, a road, a mountain, and the sea. The third of what the sea casts ashore *is due* to him, and the ninth part *is due* to him, of his tenant's finding-share of what he gets on a wild place. Whatever is found on a road is his inherent right, unless the original owner is known, except the finding-share (*reward*) to the finder.

As to a man who finds bees in a tree[b] in a lawful green; if it be after a year,[1] one-half *is due* to the man who has found them, the other half to the green in which they have been found.

If a man who has found a settlement of bees[c] outside a green in a place that reaches as far as a great wood, or a lake, or a wild place, one-third *is due* to the man who has found them, *and* two-thirds to the land on which they are found.

If a man has found a hoard of bees[c] in a wood, or a wild place, or a lake, it is his own lawful property, for it is one of the innate rights with the Feini, except the share of the head of the tribe, and the share of the church to which he makes his will,[d] whose share is one-third out of every third, for

[a] Ir. *A find.*

[b] Ir. *A tree of bees.*

[c] Ir. *A find of bees.*

[d] Ir. *His will is.*

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[1] *After a year;* i.e. when the bees have been lodged there for a year.

na conderbathar eclais na fine dineoch doruillet a membur.

Ni faithchi .i. dar lind is bilda itad is an ḟaicti sea. Mad iarmota .i. mad iarum a aitli na bliadna do gabar he. Lech naill .i. a leaṫ eile do fir na faiċe i fagabar e, da ti aindligid air a beiṫ bliaḋain ina [ḟ]aiṫċe gen ḟagbail do, no gin a cuairt do cur.

In neoch .i. in ni sin mad seaċtar aiṫċe do gabar e itir ḟaiċe ocus dirainn. Rud .i. na caillead no fiḋ. Ecmacht .i. in laċa. Dirainn .i. in ḟleibe. Trian do fir fodngaib .i. trian don ir do gaib e. Da trian .i. da trian do ir ind erainn i fagar e.

Trian dir riṫe ann, maine mo na treabaire bliadna, ocus da trian mad iar mbliadain; no, go na beiṫ aċt trian ann do gres, uair ní indiseann leabar a deiṫbir, gid re mbliaḋain gid iar mbliaḋain.

Ni rud .i. a ċaille. Dḟirainn .i. in ḟleibe. Ecmacht .i. in laċa .i. loċa bel set. Is diles .i. is diles don aei ḟeaḋa isin. Ar is oen .i. uair is oen do na hearnalib is ro diles fein do reir ind ḟeneċais. Acht cuit naige fine .i. aċt in cuid beres in nogan bis dond fine .i. flaiṫ gelne a dualgus cennaċta .i. in daerraṫ. Cuit neclaise .i. in cuid ata don eaglais ir bis aindsin re udaċt. Noch issi .i. seiċim cona i cuidsiḋe. Trian as cach triun .i. trian a haen trian don caċ sin, in nomaḋ. Ar na conderbathar .i. ar na cainnidbarṫar ind eglas no ind ine do neoċ arsilenigid o mballaib.

Trian a ċodaċ sruiṫi o daermanaċ eagalsa do an eclais, ocus o daerċeilib flaṫa do laiṫ, gu rud no ecmacht no dirainn, ocus ix. maḋ mad aindsiḋe; ceṫraimiṫe a ċoḋaċ o ḟaermanaċ eagalsa deaglais gu rud no egmaċt no dirainn, ocus aili decmad aindsiḋe; ocus noċo nuil ni o ḟaerċeile flaṫa do laiṫ.

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[1] *A year's security.*—That is, if the bees have been there for less than a year, undiscovered.

[2] *No book*; i.e. no original text.

[3] *Loch Beleed*, now Lough Muskerry, in the Galty mountains, and on the south

a church or a tribe are not to be defrauded of what they merit from their subjects.

In a *lawful* green, i.e. we think that they are ancient trees that are in this green. If after *a year*, i.e. if it is after the year it has been found. The other half, i.e. the other half *goes* to the owner of the green in which it is found, if it be legally proved against him that it has been a year in his green without his discovering it, or without his instituting a search for it.

In a place *that it reaches as far as a great wood*, i.e. this is the case when it is found outside a green between a green and a mountain. Wood, i.e. of the wood or forest. Lake, i.e. of the lough. Wild place, i.e. of the mountain. One-third to the man who has found them, i.e. one-third to the man who found it. Two-thirds, i.e. two-thirds to the owner of the land in which it is found.

One-third *is due* in this case to the finder, if there be not more than a year's security,[1] and two-thirds if after a year; or, *according to others*, there is never more than one-third, for no book[2] mentions any difference, whether it be before a year or after a year.

In a wood, i.e. of his forest. Wild place, i.e. of the mountain. Lake, i.e. of the lough, i.e. Loch Belsed.[3] It is his own, i.e. it is lawfully the property of that particular person. For it is one *of the innate rights*, i.e. this is one of the class of things which are innate rights, according to the 'Fenechus'-law. Except the share of the head of the tribe, i.e. except the share which the chief of the tribe obtains, i.e. the 'geilfine'-chief in right of his headship, i.e. the 'daer'-stock. The share of the church, i.e. the share which is due to the church of the man who is making his will. Whose *share* is *one-third*, i.e. I maintain that this is its share. One-third out of every third, i.e. one-third out of every third to him, i.e. the one-ninth. Are not defrauded, i.e. for the church or the tribe should not be defrauded of what they are entitled to receive from their subjects.

One-third of his finding share is due from the 'daer'-tenant of a church to the church, and from the 'daer'-tenants of a chief to the chief, as far as a wood, or a lake, or a mountain, and one-ninth if it is in these *places the swarm is found;* one-fourth of his share *is due* from the 'saer'-tenant of a church to a church, of all things found in the green until it reaches to a wood, a lake, or a mountain, and *it is entitled to* one-twelfth of *a swarm found* in these; but there is nothing *due* from the 'saer'-tenant of a chief to a chief.

boundary of the parish of Templeneiry, barony of Clanwilliam, and county of Tipperary. It is locally believed to be bottomless. For a curious legend concerning it, see *Leabhar Breac*, fol. 111, col. b.

BEE-JUDGMENTS.

Canas a ngabar índ aile dec, uair nac índirid líubair? Is as gabar, aṁail is e trian a ċodaċ ata o daermanaċ eagalsa do eaglais, ocus o daerċeilib flaṫa do lait, gu rud no egmaċt no diraínd, ata uaṫaib i ruḋ, cubaid desiḋe gemaḋ he trian na codaċ ita o ḟoermanaċ eagalsa da eglais gu rud no egmaċt no diraind, do beiṫ uaiṫib i ruḋ fon cuma cetna .i. aili deg.

Trian a triun dogres o daermancaib ocus o daercelib as na frithib fogabait i necmact; ar annsaċt doib in baile asa tucsat is aire is bec berar uaiṫib. Mainip rud no dirainn no ecmaċt, is triain frithe na ndaermanach do eclais ocus na ndaerceili do laith. Mad saermanach imorru, is ceathramuin rithi fogabait dia neclais mainib rud no ecmaċt no diroind. Mad rud no dirainn, is in dara rann dec no in cuiced rann dec do eclais, aċt ri. Mad ri imorru, is trian as in treot is uaisle fogaib, ocus ceathraṁu as caċ seot olcena.

Bech bite illugbart no i lius, cipe fodarothla no rodagatta, diren se amal bid a treb rosnaccad, ar rosuidigthi i comdire la feine.

Bech bite illius no luburt, it comdire fri seotu trebe.

Bech bite i faithche, cipe fodarothla no fodroxla, direnar lan dire. Ro suidiged son la feine hi comdire fri a huasal neimthiu cethra.

[1] *As far as a wood.* "Here, let it be remarked," says Dr. O'Donovan, "that the words 'gu rudh,' i.e. 'as far as a wood,' are technically used to express 'things found in the plain,' and 'i rudh,' things found in the wood (*i.e. the wood at the extremity of the plain or green*), a condensation of language not to be matched in any other language." The word 'ecmaċt' may mean 'a difficult place,' though it is once glossed, 'a lake,' in p. 197.

BEE-JUDGMENTS.

Whence is the twelfth derived, as books do not mention it? It is derived from this, as it is one-third of his share that is due from the 'daer'-tenant of a church to the church, and from the 'daer'-tenant of a chief to the chief *of a swarm found in the green* as far as a wood,[1] or a lake, or a mountain, that is due from them (*of a swarm found*) in a wood, *&c.*, it is right from this that it should be a third of the share that is due from the 'saer'-tenant of a church to his church *of a swarm found in the green* as far as a wood, or a lake, or a mountain, that should be in like manner due from them *of a swarm found* in a wood *alone*, i.e. one-twelfth.

One-third of a third is always due from the 'daer'-tenants of church lands, and 'daer'-tenants out of the hoards[a] which they get in a lake; it is on account of the difficulty of the place from which they brought them, that but little is taken from them. If it be not a wood, or a mountain, or a lake, one-third of the find of the 'daer'-tenants of church lands *is due* to the church, and of the 'daer'-tenants to the chief. But if they be 'saer'-tenants of church lands, it is one-fourth of the finds which they discover *that is due* to their church, if it (*the place*) be not a wood, or a lake, or a mountain. If it be a wood or a mountain, it is one-twelfth or one-sixteenth part *that is due* to the church, except *from* a king. But if it be a king, it is one-third out of the noblest 'sed' which he finds, and one-fourth out of every 'sed' in general.

[a] Ir. *Finds, or waifs.*

As to bees that are *kept* in an herb garden, or in an enclosure, whoever takes away from or steals them, pays *a fine* as if he had stolen them from a house, for they are fixed to the same 'dire'-fine by the Feini.

Bees which are *kept* in an enclosure or herb garden, are of the same 'dire'-fine with the 'seds' of a house.

As to bees which are *kept* in a green, whoever takes away, or carries them off shall pay full 'dire'-fine. This has been fixed by the Feini to be the same[2] as for the noble 'nemedh' cattle.

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[2] *The same as.* Literally; "This has been fixed by the Feini as equal 'dire'-fine with the noble 'nemedh' cattle."

BEE-JUDGMENTS.

Beich bite sechtar faiṫche, cipe fodaroxla no rodogata dirend landire ro suidiged i comdire la feine fri lu cethra.

Bech bite .i. imuig. Ilius .i. tall. Cipe .i. im ni de. Rothla .i. ni di criaṫraib. No rodagatta .i. ime uile na cera. Diren se .i. eirnid seisideic eneclann and, amail bid as in tig ro gatad se iad, im lan dire, ocus im lan eneclann. Ar rosuidigthi .i. uair ro suidiged cutramas eneclainde do reir in einechais is na beċaib bite is in lis tall.

No lubust .i. no is in lubġort imuiġ. It comdire .i. it cutruma sin im eneclann ris na sedaib bis aige ina ṫiġ, amail cleiṫe na neċtrand i maigin co na gabail for faesam is fir.

Bech bite i faithche .i. dia mbeaṫugad bearar amaċ a claide no a muine .i. i maigin digona .i. leiṫ eneclann innta la lan dire. Rothla .i. ím ní de criatraib. Fodroxla .i. íme uile. Direnar lan dire .i. icaid se lan eneclann im ceṫarda, a ceathair i naen ocus leiṫeineclann. Landire .i. cethere a naen. Ro suidiged .i. ro suidiged iadside do reir ind eineċais i cutrumus eneclainde ris na ceaṫraib uaisle no is luga bis ag a neiṁhed uasal im leiṫ eneclann. In comdire .i. lan intib a maigin.

Sechtar faiṫche .i. re detberear beos ro cuired amach iat. Fodaroxla .i. ím ní de, no dia criathraib. No rodagata .i. ímí uile. Direnar landire .i. icad se lan enecland intu im ceṫarda .i. ceṫere a naen. Ro suidiged .i. ro suidigeḋ iad i cutrumus eneclainde da reir índ ḟeneċais risin ceaṫra is lu a maiġín ím leiṫ-enecland intu .i. cairig a tri indib, ocus .uii.maḋ neneclaindi .i. lan eneclann is na beaċaib i lis, ocus i lubgort, ocus i faigṫi, ocus leaṫ i maigin, ocus .uii.maḋ seactar maigin.

Mas a lis no a lubgort ro gatait na beich, is lan eneclann; mas a faichi, is leṫ eneclann; mas a seaċtar faiċe, is uii.aḋ neneclaindi, gid maigin sin gid sechtar maigin, gid cutrumus lui gid cutrumus clethe. No, dan cena, acht mas a maigin, ocus is cutrumus cleithi is lan enecland. Mas a chutrumus lui, is leith eineclanḋ. Mas a seaċtar maigin ocus is cutrumus cleṫe, is leth enecland. Mas á cutrumus lui, is uii.aḋ neneclainḋi, ocus ceithri cesa diri, ocus ceis aiṫgeana in caċ cesaiġ in caċ inut dib sin.

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[1] *Abroad.* 'Imuig,' here and elsewhere may mean, 'in an open field,' as distinguished from an enclosed place.

BEE-JUDGMENTS.

As to bees which are kept outside a green, whoever carries them off or steals them shall pay the full 'dire'-fine, which has been fixed by the 'Feini' to be the same as for the small cattle.

Bees that are ***kept*** i.e. abroad.[1] **In an enclosure,** i.e. within. **Whoever** ***takes away,*** i.e. as to any part of it. **Takes away,** i.e. a part of their combs. **Or steals,** i.e. as to all the hives. **He pays,** i.e. he pays honor-price for it, as if it were from the house he had stolen them, as to full 'dire'-fine, and full honor-price. **For they are fixed,** i.e. for equal honor-price was fixed according to the 'Fenechus'-law for the bees which are in the enclosure within.

Or herb garden, i.e. or in the herb garden outside. **Are of the same 'dire'-fine,** i.e. they are equal as to honor-price to the 'seds' which he has in his house, such as the prime beast of externs taken into a precinct under protection and *with thy* knowledge.

Bees which are ***kept*** **in a green,** i.e. which are brought out for feeding to a mound or a shrubbery, i.e. an inviolable place, i.e. half honor-price *is due* for them with full 'dire'-fine. **Takes away,** i.e. as to any part of the combs. **Carries off,** i.e. as to them all. **Shall pay full 'dire'-fine,** i.e. he shall pay full honor-price as to four things, from four to one, and half honor-price. **Full 'dire'-fine,** i.e. four to one. **Was fixed,** i.e. these were fixed according to the 'Fenechus'-law to the same proportion of honor-price as the noble cattle or the smaller cattle belonging to the noble 'nemedh'-person with respect to half honor-price. **The same,** i.e. full '*dire'-fine* for them in an inviolable place.

Outside a green, i.e. these were also sent out through necessity. **Whoever carries them off,** i.e. as to any part of it, or of their combs. **Or steals them,** i.e. as to the whole. **He shall pay full 'dire'-fine,** i.e. he shall pay full honor-price for them as to four things, i.e. four to one. **Which has been fixed,** i.e. they were fixed in the proportion of honor-price according to the 'Fenechus'-law to the smallest cattle in a precinct with respect to half honor-price for them, i.e. sheep as far as three for them, and the seventh of honor-price, i.e. full honor-price for the bees in an enclosure, and in an herb garden, and in a green, and one-half in a precinct, and one-seventh outside a precinct.

If the bees are stolen from an enclosure or an herb garden, it (*the penalty*) is full honor-price; if it be from a green, it is half honor-price; if from *a place* outside a green it is one-seventh of honor-price, whether that be a precinct or outside a precinct, whether equal to small or equal to large cattle. Or indeed, *according to others,* if it be from a precinct and in proportion to large *cattle,* it (*the penalty*) is full honor-price; if in proportion to small *cattle,* it is half honor-price. If from outside a precinct and in proportion to large *cattle,* it (*the penalty*) is half honor-price. If in proportion to small *cattle,* it (*the penalty*) is a seventh of honor-price; and four hives as 'dire'-fine and one hive as compensation, *are due* for every hive in every instance of these.

Bech tetechta fer fodacoisle di maigin insuidigithar, fo teol ocus taide, rochfintar fair, ni imdich cia bech cuit do indib; diren se de fo choibne co tabar techte di magin dian da foxlaiter.

Is forsund ro suidigthi bech bretha la feine.

Bech tetechta .i. beiċ teaċtait aid no ait. Fer fodacoisle .i. fer foxlas leis iad dan ínaḋ i suidigter iad. Fo teol .i. toigleámana gaidi bunaiḋ. Taide .i. diċelta iartain. Rochfintar .i. ocus da fintar air e. Ni imdich .i. noċon eimdidnend gein fiaċu gaide uaid ge beiṫ cuid do intib, co na nescaire, ma ruc amach iat gan fis dir in feraind, gid les fen iat, no co tucta in roind bud coir orro. Diren se .i. eirnid side fiaċ gaide and fo cobíntíus amail na beaṫ cuid do íntib, co na neascaire. Co tabar techte .i. co tabair, se a dliġeḋ dir ind eraínd o foxlaiter iad [.i. g. nigend se].

Ni nimdich ge beiṫ cuit do inḋib; in aithgin ocus lan dire leo uile a etrocar. Mad trocar imorro, is dilsi a cota fen do, ocus do ren lan dire la cuit in fir aile; no gin dire uad la cuit fen, ocus is lan dire uad la cuit ceili.

Duini fuararstir friṫi beaċ and sin, ocus fiaċ gaidi ata íntib, uair na dearna a nesgairi, ocus da nesgaired íad, da biad cuidig friṫi do.

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[1] *From which they have been taken away.* The Irish enclosed in brackets, at the end of the words thus translated, is in the MS., but it is unintelligible.

BEE-JUDGMENTS.

As to a man who takes away settled bees from the precinct where they are settled, by larceny and theft, *when* it is found out against him, it shall not shelter him that he has a share in them; he pays in proportion until he has given what is lawfully due to the precinct from which they are taken away.

It is on this bee-judgments have been based by the Feini.

Settled bees, i.e. bees that have taken possession of a lodging or place. A man who takes away, i.e. a man who takes them away with him from the place in which they are fixed. Larceny, i.e. this is original theft. Theft, i.e. hidden afterwards. It is found out, i.e. if it be known respecting him. It shall not shelter him, i.e. it shall not shelter him from the payment of fines for theft, even though he should have a share in them or be the owner of them himself, and that he has made proclamation respecting them, if he has taken them out without the knowledge of the owner of the land, or until he shall have made the just division of them. He pays, i.e. he pays fines for theft at the same rate as if he had no share in them, and had not given notice. Until he has given, i.e. until he has given his due to the owner of the land from which they have been taken away.[1]

It does not shelter him that he should have a share in them; restitution and full 'dire'-fine for them all[2] is the severity *of the law in this case*. But if leniency *be allowed,* he has full right to his own share, and he pays full 'dire'-fine with the other man's share; or, *according to others*, he pays no 'dire'-fine for his own share, and full 'dire'-fine with his neighbour's share.

This is the case of a man who has discovered a find of bees, and fines for theft *are due* for them, because he did not give notice, for if he had given notice of *his having found* them he would get a finder's share.[3]

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[2] *For them all;* i.e. for all that he took away, for his own as well as for his neighbour's.

[3] *A finder's share.*—The tract ends imperfect here. A fragment of a glossary on the subject of bees, supposed to be a part of the Senchus Mor, will be found in the appendix. For the mode of taking bees in distress, *vide* Ancient Laws of Ireland, vol. 2, p. 121, and for sundry regulations as to injuries done by and to bees, *vide* vol. 3 of the same work, pp. 433–439.

COIBNIUS UISCI.

RIGHT OF WATER.

COIBNIUS UISCI.

Right of Water.

Coibnius uisci toiridne hi fintedaib gruain asasa tairrnider; ar isse coibnius uisce tairidne la feine. Tir asa toiridnither ar ised on ailes cach cet la deolaid sech na cricha olchena, air ni confes cat e bunad ind uisce, act a tir asa tairidnither; iss asuidiu frussdrengatar na la aile dar tir tire bessda nessom; iarsuidiu, do tet indfine ar beolu deirbfine, ar issi innfine i fintedaib gruain a tir i fuissither; ar issruithiu la feine in foesam andsen óldas a tir as a tairidnither, air issed ailes tri la deolaide sech na cricha olchena, amal bes foessma. Ar ata foessam la feine nad aili[d]acht tri soetu ar a curu bel, fo bith nandasu dichenglad cor mbel inneoch maralatar ceni do facbail leo neoch maralatar, acht noe curu athathaithbecta la feine, cia raiter, hiteiside na dalet fine. Fine fodafoccair fouith fris na dabruid sochaide, ar ni techta nach foessam ar na tegat racha fine, ocus nad forngara aige fine; ar dichenglaiter cach chor cen raith fine la feine.

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[1] *The three nearest lands.*—See O'D., 1025 and 1028, for a more distinct reference to these divisions of the tribe lands. The word translated three here, as the sense requires, was written originally in the M.S. 'tir,' but the i has been obliterated.

[2] *Nine contracts.*—For the regulations on the subject of contracts, *vide* The 'Corus Bescna,' in vol. 3 of The Ancient Laws of Ireland.

RIGHT OF WATER.

RIGHT OF WATER.

THERE is equal right to the water drawn through the tribe lands *due to the lands* out of which it is drawn; for thus the right of drawn water is adjusted[a] by the Feini. The land out of which it is drawn is entitled to have each first day (*i.e. Monday*) gratis in preference to[b] the other districts in general, for it is not known where the source of the water is, except *that it is assumed to be* the land from which it is drawn; after this the remaining days are distributed over the three nearest lands;[1] after this, the 'innfine'-land goes before the 'deirbhfine'-land, for in tribe lands the 'innfine'-land is the land in which it (*the water*) is detained *in a pond*; for the land in which it is detained is nobler with the Feini than the land out of which it is drawn, for it (*the pond lot*) is entitled to three days of gratuity in preference to[b] the other lands, like the custom of 'foessam.' For there is a 'foessam' with the Feini that does not deserve but three 'seds' for his verbal engagement, on account of the difficulty of dissolving a verbal engagement by which, when perfected, anything was or was not left to them, except *in the case of* nine contracts[2] which are dissolved by the Feini, though it is said, these are they whom the tribe does not recognise. The tribe proclaims them because the many do not approve of them, for no 'foessam' is lawful which is not supported by sureties of the tribe, and which is not proclaimed by the head of the tribe; for every contract is dissolved by the Feini which has not[c] surety of the tribe.

[a] Ir. *This is the.*

[b] Ir. *Beyond*

[c] Ir. *Without.*

RIGHT OF WATER.

Coibnius .i. ata coibíntíus no comducus don ine isin uisce tairngitir and, a dualgus ind earainn dar tairngitir e. Ar isse coibnius .i. uair ise coibíntíus no comduċus ind uisce tairngitir and do reir ind ḟeneċais. Ar ised on ailes .i. uair isiside airiltniges in ced la di indeoladċaire seaċ na fearanda olċeana. Ise cuid in deolaiḋ, nocon eigen di crandcur. Cach cet la deolaid .i. ceċ log do ar tus .i. deolaid leis araba in tuisce do tabairt as, no, ise cuit a deolaḋ, noċo necen a taċal. Air ni confes .i. uair noco neas cait. ímí bunaḋ eile icon uisce aċt in fearand asa tairngitir e .i. as in tobor. Iss asuidiu .i. is asa nai eaḋa isin dreimnigter na laiṫi da luċt na tri fearand is nesu doib .i. iar tabairt laithe do tosur. Iarsuidiu .i. iar tabairt luain do tosur. Do tet indfine .i. ar iarine .i. in lind. Ar beolu .i. ria tirib no in tir o tobur gu lind. Deirbfine .i. in linn. Ar issi infine .i. air is in cosmailius na indini ar iarini i finiduiḋċib ind ḟearainn. Tir i fuissithen .i. fearand i fuiridnigtir .i. in lind, in tuisce. Ar issruithiu .i. uair is uaisli da reir ind ḟenechais in fearand i fuismiṫer no i fothaigter. In foesam andsen .i. in lind. Oldas a tir .i. oldas in fearand dar a tairngiṫir e in dire o tobur co lind. Air issed ailes .i. uair isi sin airiltniges tri la di indċoladċairi seaċ na fearanna eile ceana. Is e cuid in deolaiḋ. Amal bes .i. amail bes in mic foesma. Ar ata foessam .i. uair ata mic foesma da naisneidend in fenechus, ocus noco nairiltnigend se aċt tri seotu .i. tri ba ar treabaire gu coir o belaib o rigaib co na comgradaib da mic foesma da geilfine no da deirbfine dar braigid fini ocus dar rormact sealba in feanoir .i. foesam grad flata tar braigit fini ocus tar ceann forcraide sealba. Fobith .i. fon faṫ nocon urusa gein ni da ċeangal don ti risi tabar treabaire gu coir o belaib. Inneoch .i do neoch sin mar a cuireḋ e. Ceni .i. gen ni dagbail acu co na macaib foesma. Neoch .i. dinneoċ sin mar a cuireḋ e .i. mada isin litir. Acht noe caru .i. ar na hulib ċoraib is taitmecta .i. cor moga, cor manaig, cor mic beoathar, cobce do baeṫ, cor baith fri gaet, cor da bán gin a cele, cor dorce, cor merce, cor omna. Cia raiter .i. cia imraiter iad. Niteiside .i. is iad sin ocus nocon aḋa lenas mn̄ ini iad ma sasdaḋ. Fine fodafoccair .i. bid indi fini ga firfogra. Fouith .i. fon faṫ bid in ḟoċaiḋe ga fruċrud corairte a taitmeċ. Ar ni techta nach foessam .i. uair noċo dligeḋ lin in mac foesma da ġabail imuiċ maini decsad treabairi don ini sus im log na gaire do tabairt do. Nad forngara .i. mana rab in toġai bes don ini ga forcongor. Ar dichenglaiter .i. cin nas ceangailter gaċ cunrad gein treabairi and da reir inde feneċais.

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[1] *The force of gratis is.* The remainder of this explanation is lost.

RIGHT OF WATER.

There is equal right, i.e. there is equality of right or inherent right due to the tribe in the water which is drawn, in right of the land over which it is drawn. **For thus the right is adjusted,** i.e. for it is the equality of right or inherent right to the water that is drawn *that is here treated of*, according to the 'Fenechus'-law. **Is entitled to,** i.e. for it is this *land* that deserves to have the first day gratis (*i.e. by way of privilege*) before the *other* lands in general. The force of 'gratis' is that it is not obliged to cast lots. **Each first day gratis,** i.e. it is entitled to every price first, i.e. it is gratis to it on account of the water being led from thence, or, the force of the 'gratis' is, it is not necessary to dig for it. **For it is not known,** i.e. for it is not known where there is another source for the water except in the land out of which it is drawn, i.e. from the well. **From which,** i.e. it is from this particular thing the *other* days are distributed to the people of the three lands that are nearest to them, i.e. after giving a day to the well. **After this,** i.e. after giving Monday to the well. **The 'innfine'-land goes,** i.e. before the 'iarfine'-land, i.e. the pond. **Before,** i.e. before the lands or the land *extending* from the well to the pond. **'Deirb-fine'-land,** i.e. the pond. **For the 'innfine'-land,** i.e. for after the likeness of the 'innfine'-lands to the 'iarfine'-lands are the divisions of the tribe land *with respect to the water*. **The land in which it is detained** i.e. the land in which it is gathered, i.e. the pond, the water. **Is nobler,** i.e. for the land in which it is gathered or detained is nobler according to the Fenechus. **Is detained,** i.e. the pond. **Than the land,** i.e. than the land over which it is drawn, i.e. the land *extending* from the well to the pond. **For it is entitled to,** i.e. for it is this that deserves to have three days gratis before the other lands in general. The force of gratis is . . .[1] **Like the custom *of 'foesam,'*** i.e. like the custom of the adopted son. **For there is a 'foesam,'** i.e. for there are adopted sons of which the 'Fenechus'-law makes mention, and they[a] do not deserve but three 'seds,' i.e. three cows, for proper security from kings and persons of the same grade with them, for the adopted sons of their 'gelfine'-division or 'derbhfine'-division in contravention of the tribe and of the increase of the old man's property, i.e. the 'foesam' of a chieftain grade in contravention of the tribe and for the increase of the property. **On account of,** i.e. because it is not easy not to fasten a thing upon the person to whom security is given properly by word of mouth. **By which,** i.e. by which according as it was put. **Without any thing,** i.e. without their leaving anything to their adopted sons. **Which,** i.e. according to that thing as it was put, i.e. if in the writing.[b] **Except nine contracts,** i.e. all the contracts which are dissolved, i.e. the contract of a bondman, the contract of a 'manach'-person, the contract of a son whose father is alive, a nuptial-present to a harlot, the contract of an idiot with a sane person, the contract of a wife without her husband, a contract in the dark, a contract of drunkenness, a contract of fear. **Though it is said,** i.e. though they are mentioned. **These are they,** i.e. these are they which the tribe does not deem lawful to keep. **The tribe proclaims,** i.e. the tribe truly proclaims them. **Because,** i.e. because the many insist that it is proper to dissolve them. **For no 'foesam' is lawful,** i.e. for we do not deem it lawful to take any adopted son outside unless sureties of the tribe are given with him that the price of maintenance will be given for him. **Not proclaimed,** i.e. unless the head of the tribe proclaims him. **For *every contract* is dissolved,** i.e. that no contract is made binding without security for it, according to the sense of the 'Fenechus'-law.

[a] Ir. *He.*

[b] Ir. *Letter.*

RIGHT OF WATER.

Inge .uiii. nuasal churu nadat asu do chaithbiuch neoch ma rolathar; tabert rig, tabairt epscop, apert ar a[n]muin, tabeirt filech, commuin athar ocus a meicc, comtus cacha lamna, ni do beir flatha dia cele, set turchlaithe no rath darairdig, no turcreicc dian airbiathar.

Ni meiccditer fir nime ocus soscela Crist, ar dlegar do cach deorad de saigid a nadma sosaid, amal adrogesta ind, no do dicsed a chelebrad aire.

Inge .i. ar act na .uiii. curu uaisli ocus nocon urusu a taiṫmeaċ. Ma rolathar .i. madia rolaeiter iad. Apert .i. in ní udbras neaċ ar anmain, Tabeirt filech .i. tabairt do berar don ilid. Tabarta dligṫeaċa sin. Commuin .i. na maene cumṫar itir in mac ocus in aṫair da comluigṫib. Comtus cacha lamna .i. in cumaid do comloigib uais bis itir in lanaṁain do comloiċib. Set turchlaithe .i. in set do ḃearar ar cloḋitar. Rath darairdig .i. in raṫ da berar eir eini raindiġ, ar ind imarcraid biata ocus mancaine. Turcreicc .i. no in creic ṫoriṫneaċ raṫa dia nuasalbiatar in flaith.

Ni meiccditer .i. ni ingeiscetur. Fir nime .i. muintir níme. Ar dleagar .i. uair dleagar do gaċ deoraiḋ dé indsaigiḋ a nascaireacta side. Amal adrogesta .i. amail do rognitea e fein ind, is amlaid dlegar de a tobaċ, gin gu habairter sis. No do dicsed .i. no do diġseḋ a labra ciallaiḋe aire.

Cain cach uisci chairidne la feine. Frisdrengar a tir ar a tairidniter, ocus insuidigther. Ar atat .iii. caine nad chumgat comarbai do chumscuchud dianar damat a nathair fria naimsir; cain cach uisce tairidne, ocus cain inbir, ocus cain drochit; air ithe teora trebuire in sen nadrithrolat [ele, no na cumgat comarba do cumscugud] comarbai

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[1] *Husband and Wife.* The term 'lamna' or 'lanamna' signifies in modern Irish "a married couple." In the ancient Irish Laws it had a much wider meaning. *Vide* Ancient Laws of Ireland, vol. 2, p. 343, *et seq.*

[2] *Overplus food stock.* *Vide* Ancient Laws of Ireland, vol. 2, p. 263, for explanations of this, and also of the terms "returnable 'seds,'" "proportionate stock."

RIGHT OF WATER.

Except seven noble contracts which it is not easy to dissolve, if they have been perfected: a gift to[a] a king, a gift to[a] a bishop, an offering for one's soul, a gift to[a] a poet, the reciprocal gifts of a father and his son, the mutual gifts of each husband and wife,[1] the thing which a chief gives to his tenant, i.e. the returnable 'sed' or the overplus food stock,[2] or the proportionate stock for which he is supplied with provisions.

The men of heaven and of the gospel of Christ are not excepted, for every pilgrim is bound to oppose them *(the contracts)* as if he *himself* had made them, or his word of wisdom had passed about it.

Except, i.e. but except the seven noble contracts, which it is not easy to dissolve. If they have been perfected, i.e. if they have been actually made. An offering *for one's soul*, i.e., what one offers for his soul. A gift to a poet, i.e., a gift which is given to the poet. These are lawful gifts. Mutual gifts, i.e. the property mutually given between the son and the father as adjustments. Mutual gifts of each husband and wife, i.e. the equality of noble gifts which is between the married couple, as adjustments. The returnable 'sed,' i.e. the 'sed' which is given to be returned. Overplus food stock, i.e. the stock which is given for the increase, for the excess of food and labour. The proportionate stock, i.e. or the relieving fee of the stock for which the chief is nobly supplied with food.

Are not excepted, i.e. no exception is made. The men of heaven, i.e., the people belonging to heaven (*churchmen*). Is bound, i.e. for every pilgrim is bound to oppose their security. As if he *himself* had made them, i.e. as if he himself had made them, it is thus he is bound to levy although it is not told him. Had passed about it, i.e. as if their speech ('labꞃa') of wisdom ('ciallıaꝺe') was concerned about it.

Of the 'cain'-law of each water which is drawn, according to the Feini. It is regulated according to the land out of which it is drawn, and *that* in which it is settled *(ponded)*. For there are three 'cain'-laws which the 'coarbs' cannot alter[3] if their fathers had consented to them in their time; the 'cain'-law of each water conducted, and the 'cain'-law of the dam, and the 'cain'-law of the bridge; for these are the three laws which the 'coarbs' can-

[a] Ir. *Of.*

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[3] *Cannot alter.* The words in brackets in the Irish are found on the left-hand margin of the MS., and appear to be another mode of expressing the statement in the text.

RIGHT OF WATER.

Dianar damat aithir ocus senathair fri amseir neoch. Mad rodmaiter, a mbith samlaid co brath, im deolaid fa log nach dligthir, a reir brithemon.

Cain cach uisci .i. riagail in nuisce tairngithir and do reir ind eneċair. Frisorengar .i. frisoreimnigter da lucht na fearand dara tairngiter e .i. in topar. A tir .i. mir ó topar co lind. Ind-fuidigther .i. in lind, Ar atat .i. uair atad teora riagla nad cuiṁgeḋ na comedaide orba du cumsgugud acht co tartar luaġ doib. Dianar damat a nathair .i. dia rabad a nathair ocus a seanathair ina rodaidin fria naimsir. Cain cach uisce .i. riagail ind uisci tairngithir and. Cain inbir .i. riagail inbir na coraḋ, no riaġail inneiċ bis in inde bera na corad. Cain drochit .i. riagail in droicid. Air ithe .i. uair is iad sin tri neiċi treabara na firaṫcuired na comedaiḋ orba. Dianar damat .i. dia rabad a nathair ocus a seanathair ina rodaidin, ocus se bodein. Fri amseir .i. iubaile iar trebuire so, ocus ni festar cia cana cet racha fris. Mad rodmaiter .i. ina neiċi sin madia rabad ina rodaidin neoċ dleagar. A mbith samlaid .i. seiċim no indsaigim gu ndlegar a mbeiṫ aṁlaiḋ sin. Im deolaid .i. gid in aisgid. Fa log .i. gid log da bertar da cind. Nach dligthir .i. seiċim no indsaigim gu ndleagar a mbeiṫ aṁlaid sin, da reir in breiṫeaman.

Ma rabas ina aididin sin co tairnig a nenaṁ ar in fearand .i. cora eisc, is a ndilsi dosges o sein amaċ, ocus a mbeiṫ amail caċ rudraḋ iar trebuire. No dna, ceana, is re rudarṫa do riagail riu; ma rabas ina aititin re re trir, is a ndilsi o sein amaċ. Aċt mani raib mac in tres fear dib re mar aen re aṫair ina aititin, ina ecodnaċ, ocus ma ro bai, noċo ba dileas iad dosges no co raib in comat sin ina aititin iar diaċtain ceille coḃnaiġ.

Dligid cach comaithech diaraile tuididin uisce thairidine tar a crich, ineoch ma focrethther, ro suidiged a fochraicride for seoit deich screbul dar cach mbrug do taet neoch. Mad eatam, geni gaba acht lethgabail de, direnar in chruth so. Mad ainmin

not change, if their fathers and grandfathers had consented to them for a time. If they have been *so* acknowledged, it is right that they should remain[a] so for ever, gratis or for payment, according to the Brehon.

Of the 'cain'-law of each water, i.e. the rule of the water which is drawn, according to the 'Fenechus'-law. It is regulated, i.e. it is proportioned on the people of the land over which it is drawn, i.e. the well. The land, i.e. the extent from the well to the pond. It is settled, i.e. the pond. For there are, i.e., for there are three rules which the heirs to the land[b] cannot change, so as that value is given them. If their fathers had consented, i.e., if their father and grandfather were in acknowledgment of it in their time. The 'cain'-law of each water, i.e. the rule of the water which is drawn. The 'cain'-law of the weir, i.e. the rule of the river-mouth or of the weir, or the rule of the thing which is on the top of the stake of the weir. The 'cain'-law of the bridge, i.e. the rule of the bridge. For these are, i.e. for these are the three secure things, which the land-heirs[b] cannot set aside. If *their fathers* consented, i.e. if their fathers and grandfathers were in full acknowledgment, so shall they themselves. For a time, i.e. this is a lapse of time after security, and it is not known what 'cain'-laws should be first applied to it. If they have been *so* acknowledged, i.e. if these things have been acknowledged, it is right, *&c.* They should remain so, i.e. I maintain or insist that it is right to have them so. Gratis, i.e., though for nothing. Or for payment, i.e. or whether price is given for them. It is right, i.e. I maintain or insist that it is lawful that they should remain so, according to the Brehon.

If these were recognised until the completion of their erection on the land, i.e. a fishing weir, *&c.*, they are lawful ever after from that out, and they shall be like every prescriptive right after security *has ceased*. Or else, *according to others*, they are to be regulated according to the period of prescription; if they were recognised during the lives of three persons, they are lawful from that forth. But if the son of the third man did not acknowledge them jointly with his father, he being an infant, and in case he was so, they shall not be lawful until he shall have acknowledged them for the same period after he has come to the age of reason.[c]

Every cotenant is bound to permit the other (*cotenants*) to conduct drawn water across his border, and if it be purchased, its price is fixed to a 'sed' worth ten 'screpalls' for every farm over which it is carried. If it be arable land, though it (*the water*) should pass through only half a step of it, it shall be paid for after

[a] Ir. *Be.*

[b] Ir. *Keepers of the land.*

[c] *The sense of a sensible adult.*

RIGHT OF WATER. — immorru, is let set inna log side, alaile is la cacha tire do cet dlegar aire.

Atait .iii. tire la feine tair nach arra doairicerthar uisce, nemed cille, no duin, no a margen firt.

Atait tri tire aile la feine na dlegat fochraicc, nach aicherrom dirенат taididin tairrsiu: tir iarо tairdle muilenn, co tabair torad: treb oc na bi uisce ar du fogna co tairbdnichter seicce, co mbi uisci nesse araid fogna: clad bis fair conidluna tola uisce.

Dligid cach comaithech .i. [illegible]

Tair nach arra .i. [illegible] Nemed cille .i. [illegible] No duin .i. [illegible] No a margen .i. [illegible]

Na dlegat .i. na dlegait [illegible] Nach aicherrom .i. [illegible] Tir iarо tairdle muilenn .i. [illegible] Co tabair torad .i. [illegible] Treb oc na bi uisce .i. [illegible] Ar du fogna .i. [illegible]

· Rotation, i.e. every one getting his proper time to grind in his turn.

this manner. But if it be unprofitable[a] land, half a 'sed' is its price, otherwise it is a day *at the mill* for every land over which it passes that is due for it.

There are three lands, according to the Feini, over which it is not easy to conduct water, the 'nemed'-land of a church, or of a 'dun'-fort, or in the precinct of a fair-green.

There are three other lands, according to the Feini, which are not entitled to price, and for which nothing is paid for conducting water through them; land on which a mill stands, so that it yields produce; a house which has not water to serve it until it is led to it, so as that it has water to serve it; a trench which is empty until floods of water fill it.

Every co-tenant is bound, i.e. every person is bound to allow his co-tenant to draw the water which is *required to be* drawn across the land; and this is the second instance in the 'Berla'-speech, where the law commands a person to sell his land though he should not like to do so. **If it *be purchased***, i.e. if this be purchased for the price which is *prescribed* according to law, it must then be sold for the lawful price. **Is fixed**, i.e. I maintain or insist that its price is fixed to a 'sed' worth ten 'screpalls' for every land over which it passes. **If it be arable land**, i.e. it is then it is so. **Though it should pass**, i.e. though it should pass but across half a step of it, i.e. the step of a foot and a quarter of a foot, for the lawful step is two feet and a half. **It shall be paid for**, i.e. it is paid for after this manner. **If unprofitable**, i.e. if not arable land. **It is half a 'sed,'** i.e. of which the value is five 'screpalls,' i.e. half the ten 'screpalls.' **Otherwise**, i.e. another version, it is a day for every land across which it passes that is due for it when it is a rotation[1] of a mill.

Over which it is not easy, i.e. over which it is not easy to draw the water. **The 'nemed'-land of a church**, i.e. the cemetery. **Or of a 'dun'-fort**, i.e. the area of the 'dun'-fort of a king. **Or in a precinct**, i.e. the delightful, or pleasant, or agreeable land of the fair.

Are not entitled, i.e. which are not entitled to fair price of value. **For which**, i.e., I maintain or insist that it is these that purchase what passes across them, and the purchase-price which they give for it is to let it (*the water*) pass over them without any price. **Land on which a mill stands**, i.e. the head of a mill, so that it yields its produce, i.e. much water. **So that it yields produce**, i.e. so that it yields its produce for letting the water *be conducted* to it, i.e. of fish. **A house which has not water**, i.e. a house to which no water flowed before to serve it nobly. **To serve it**, i.e. until then, i.e. land in which there is a mill

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[a] Ir. *Rough.*

Right of Water.

cain uisce co tairngither seċa ferand do. Co tairidnither .i. co tairngiter seaċa e. Co mbi uisci .i. conad he in uisci sin fognas i. Clad bis fas .i. cein uisci ann. Conidlina .i. co linand imad uisci e.

Oċt la dec comlana isin i cuairt muilinn. Luan do ṫobor, mairt do lind, cedain is dardain do saeraib, oendiden ocus saṫarnd do riċnam. Luan acherrac do lind, mairt o ṫobor go lind, cedain ocus dardain do faeraib, oendiden ocus saṫarnd do riċnam. Luan do lind, mairt o lind sis, cedain ocus dardain do faeraib, oendiden ocus saṫarnd do riċnam. In tan is cuairt sin. In tan is loġ imorru, is screpall for tobor, ocus a deċ o ṫobor gu lind, ocus deiċ screpall fichet for lind, ocus a deċ o lind sis, conaḋ tri ficid screaball uile sin, maḋ eaċtair; mad ineaċtair is a leaṫ .i. u. screpall for tobor, ocus a .u. o ṫobor gu lind, ocus a u. deg for lind, ocus a .u. o lind sis, conaḋ .x. screpall ficed uile sin.

Ciḋ fodera coniḋ cutruma for na fearannaib in tan is cuairt, gemmoṫa lind, ocus noċu cutruma orra in tan is loġ. Is e in faṫ fodera, a roġa tugaḋ dearaib na fearand in cuairt da biaḋ doib, no in loġ, ocus is i roġa rugsadar cuairt: trian da ṫir ocus gus na hearnailib bide malle ria, ocus trian do elaḋain fair, ocus trian do biud ocus do borbriċnum .i. a .u.eḋ cectar de.

Luan do ṫobar, toraiṁ ngrind,
In mairt ina diaiḋ don lind,
Cedaín dardaín, dail in raiṫ
A tabairt da na saeraib.
Aíne agus saṫarnd, seol nglan,
Isead ro saiġ a friċnam,
Is i sin, siṫ gu mbail,
A ciud corr dan ceoseaittmaín.

Luan agus mairt, meabair mbind,
Do na tirib gus in lind,
Agus o ṫa in lind amaċ,
Nis toraiṁ a naṫarach.

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[1] *Eighteen days.* This commentary and the verses following it are found on the top and bottom margins of page 26 of the MS. H. 2, 15. (T.C.D.)

RIGHT OF WATER.

without water until it is conducted to it for its good. **Until it is led to it,** i.e. until it is drawn past it. **That it has water,** i.e. that it is that water which serves it. **A trench which is empty,** i.e. without water in it. **Until filled,** i.e. until much water fills it.

Eighteen days[1] complete are in the rotation at the mill. Monday *is due* to the well,[2] Tuesday to the pond, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. The next Monday *is due* to the pond, Tuesday from the well to the pond, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. Monday *is due* to the pond, Tuesday from the pond downwards, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. This is when it is rotation. But when it is *a case of* price, it is ten 'screpalls' *that are charged* on the well, and ten *on the land* from the well to the pond, and thirty 'screpalls' on the pond, and ten on the *land*-pond downwards, all which amount to sixty 'screpalls,' if it be arable land; if it be not arable land it is one-half of this, i.e. five 'screpalls' on the well, and five from the well to the pond, and fifteen on the pond, and five from the pond downwards, all which amount to thirty 'screpalls.'

What is the reason that it is equal amount that is upon the lands when it is a rotation, excepting the pond, and that it is not equal amount when it is price (*i.e. money that is paid*)? The reason is, the men of the lands got their choice whether they would have rotation, or pay price, and the choice they took was rotation: one-third goes to the land and the things which belong to it, and one-third to the science of the artisans, and one-third to food and to rude labour, i.e. a sixth to each.[3]

Monday to the well, a pleasant deed,
Tuesday following to the pond,
Wednesday, Thursday, prosperous assignment,
Are given to the artisans;
Friday and Saturday, fine the arrangement,
Are assigned to the attendance,
This is the peaceable ordering,
The proper distribution of the first week.

Monday and Tuesday, sweet remembrance,
To the lands as far as the pond,
And from the pond out,
A different one does not occur.

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[2] *To the well.* Here, and throughout this commentary, the definite article is used in the translation several times where it is not in the Irish.

[3] *A sixth to each.* The Irish has a fifth, which seems plainly wrong.

Right of Water.

Cedaín, dardaín, dingnaib ngal,
Is in tectmain seo do ricnaṁ,
Aeíne, Saṫarnd, sluínd go lu,
Do saeraib arí ísiu.

In tréas seaċtmain naċ inill,
Tuc luan agus mairt da lind;
Cedaín, dardaín, ni daer clu,
Tabair don taer ín cur su;
Aeine agus saṫarnd, sir ngnaṫ,
Do riċnaṁ a neidenaċ.

Oċt laiṫi deg digrais dal,
Isi sin in cuairt camlan.
Gen bes muilend for a bleiṫ;
Rantar aṁail ro randaḋ,
A comroínd is aṁlaiḋ seo,
Maní recait ar seodo.

Crist gu níg gaċ mbeaṫaiḋ mbi,
Mac don íngín Eabraiḋi
Sil Aḋaiṁ, ilarḋa ín sluaġ
Riċfidid uili in noen luan.

Cid fo dera go failed tri xx. it screball do loct na fearand ro leadrad sund, ocus masa ṁuilend cumaile tri mbo na fagand aċt samaisg cona log i laím is bunaiḋ? Se in faṫ, da daeinib na fearand da leadrad and da beirar a roġa imċuairt muilind da bertar doib, no míat na scribail; ocus masa ṁor leosaṁ na denad muilend ar fearand ind is eile.

Oċt la déc comlana isin in cuairt .i. luan taisech do choper, mairt do linniḋ, cedaín ocus dardain do saeraib, aindidin ocus seachairn do frutghnum. Luan ocus mairt do chairidim o linni co toper ocus o muilinn sis. Cedain ocus dardain do frutgnam, ain ocus sathairn do traer, luan ocus mairt do linni, cedain ocus dardain do saer, ain ocus sathairn do frutgnam. Tossach cuarta in so do ridiri; luan do tobar ocus mairt do linni, cedain ocus dardain do saer, ain ocus

RIGHT OF WATER.

Wednesday, Thursday, of wonderful work,
In this week *go* to attendance;
Friday and Saturday, of mention least,
To the artisans who superintend.

The third week for every work,
Monday and Tuesday are given to the pond;
Wednesday *and* Thursday, not slavish their fame,
Give the artisan this turn;
Friday and Saturday, constant custom,
To attendance, give the last.

Eighteen days of fervid work,
This is the extent of the entire rotation,
Without mill-tribute for its grinding;
It is distributed as it was *above* distributed,
The distribution is thus,
Unless they sell it for 'seds.'

To Christ, who has power over every living life,
The son of the Hebrew Virgin,
The race of Adam, numerous the host,
Shall all come on one Monday.

What is the reason that there are sixty 'screpalls' *due* to the people whose lands were cut up in this instance; and if it be a mill worth a 'cumhal' of three cows, that it gets only a 'samhaisc'-heifer with its value into the hand of the owner? The reason is, the people whose lands were cut up in this instance are given their choice of having the rotation at the mill, or the 'screpalls'; and if they deem it too much, let them not make a mill on the other man's land.

Eighteen entire days is the extent of rotation, i.e. Monday first to the well, Tuesday to the pond, Wednesday and Thursday to the artisans, Friday and Saturday to attendance. Monday and Tuesday *are* for the embankment *extending* from the pond to the well, and from the mill downwards. Wednesday and Thursday *go* to attendance, Friday and Saturday to the artisan, Monday and Tuesday to the pond, Wednesday and Thursday to the artisan, Friday and Saturday to attendance. The commencement of the *second* rotation here again: Monday *is due* to the well, and Tuesday to the pond, Wednesday and Thursday to the artisan, Friday and

RIGHT OF WATER.

sathарn do ḟritgnam. Da la do cach ae a seaċtmain, a .iiii. a coictigis do caċa, a uí dia xx. it aiḋċe, oċt la caċ ae dia mis .i. a ceṫair do linni, a do do thorur, a do tairidin i coitcinni itir linni ocus torur, ocus o muilind sis. Confodlaside eturru uile.

Atait .uii. claid la feine na direnaiter cinaid cia robdaiter indib, ar adgerad cach di threbaire neoch mani denta ruidles de. Clad dune, clad cille, clad firt, clad usci tairidne, clad linne muilind, clad fotaig mona, clad bis im droichet; ar otha suidiu hicad cach cinaid a claid di cacha nime do rona nech ina tir, do neoch forroi ocus do lina tola, are cogairead cacha trebuire mana ro samaigtea na ro dilse so huisce, cenmoṫa na .uii. claid seo. Is for sund ro suidiged coibnius uisce tairidne la feine.

Atait .uii. claid, .i. ataid .uii. cluiḋ da nairneidend ín feneċas ocus noco neirniter eiric ína cintaib. Cia robdaiter .i. cia ro baiṫ íntib. Ar adgerad .i. uair da urgairfeḋ a trebaire im gaċ nduini maní suidigṫea na neiċi seo a rondilsi. Clad dune .i. ín rig .i. do nither im dun na flaṫa da daingniugud. Clad cille .i. ín releg. Clad firt .i. inn oenaig .i. cid inndliged so uile, islan. Clad usci tairidne .i. clad ind uisci tairngiter and cum ín muilind, in tan ata

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[1] *They all divide these between them.* Dr. O'Donovan remarks on this; "Whenever a mill was to be erected for the use of neighbours, it was left to the option of the persons concerned (who were generally the inhabitants of the three nearest lands), whether they would all join in constructing the works and conducting the water thereunto, or let all be done by one man, who was to pay his neighbours for conducting the water through their lands. If the neighbours had assisted in forming the mill-pond, mill-race, and other works, they were entitled to certain days' grinding at the mill, according to their respective positions on the land through which the water was conducted. They were technically distinguished, like the different branches of the family of a chieftain, by the terms 'gelfine,' 'derbhfine,' 'iarfine' and 'innfine.' The 'gelfine' were those in whose lands the source of the water was (which source was not always the actual fountain of the stream, but the point at which the water was turned off for the use of the mill; the 'derbhfine' were those who dwelt on both sides of the mill-leat or embankment extending from the well or point where the water was turned off to the pond; the

Saturday to attendance. Two days to each in the week, four in a fortnight to each; six in twenty nights, eight days to each in a month, i.e. four to the pond, two to the well, two to the embankment between the pond and the well, and from the mill downwards. They all divide these between them.[1]

There are seven ditches, according to the Feini, the injuries done by which are not paid for (though such should be done by them), for every person shall be corrected by his surety unless they have been made free; the ditch of a 'dun'-fort, the ditch of a 'cill'-church, the ditch of a fair-green, the ditch of a mill-race, the embankment of a mill-pond, the ditch of a turf bog, a ditch which is at a bridge; for from this out each one pays for the injury sued for or caused by each ditch which one has made in his land, to him who has sustained the injury, for every surety shall be sued unless these exemptions have been established as regards water, except these seven ditches. It was thus that the common right to conducting water was established by the Feini.

There are seven ditches, i.e. there are seven ditches which are mentioned by the 'Fenechus'-law for the injuries of which no 'eric'-fine is paid. Though such should be done, i.e. though such have taken place. Shall be corrected, i.e. for his surety would forbid every man, unless these things had been established as exemption. The ditch of a 'dun'-fort, i.e. of the king, i.e. which is made around the 'dun'-fort of the chieftain to fortify it. The ditch of a 'cill'-church, i.e. the cemetery. The ditch of a fair-green, i.e. of the fair. Though all these are illegal, they are exempted. The ditch of a mill-race

'iarfine' were those around the pond; the ianfine were those who resided on both sides of the stream below the mill, until it flows out of the land of the parties concerned. Each of the parties through whose lands the water was conducted was entitled to certain days' work at the mill in their turn, according to the above classification; but if they did not choose to be paid by the work of the mill in grinding their corn, the owner of the mill paid them to the amount of sixty 'screpalls' to indemnify them for the injury done their lands by the channel and embankments necessary to conduct the water to the mill. The price was paid to each in proportion to the value of his land, for the commentator says that ten 'screpalls' were paid for arable land, even if the water had been conducted only over a foot and a quarter of it. The mill was of such importance to the neighbours, that none of them could prevent the conducting of the water to it when the price was offered.

RIGHT OF WATER.

ina dligeḋ. Ar a coitcinne na claḋ sa gu naċ urasa cin dagra for a tigernaib; no is dentada iad ar nar cind ugdair cinneḋ denṁa; ocus ma da rona daini iad mar is dligṫeaċa conrainig, is dentā dirait iad. Clad fotaig .i. in clad as a tabar fodbaċ na mona .i. na caiteḋa .i. oc na bi forcongrad, no aicbeile. Clad bis im droichet .i. clad bis laim re ceand in droiċid. Ar otha suidiu .i. o ṫa innai eaḋa isin ṡmaċ icaiḋ cinaiḋ a claiḋ do caċ ni anmainiges sẹ ina ṫir do neoċ bis co indligeḋ. Di cacha nime .i. da ní neaċ ṡna ḟearand. Do neoch forroi .i. do neoch ris a firḟuacṫnagend se .i. di neoch linas imaḋ uisci. Are cogairead .i. ro hordaiged im cacha trebaire, mana samaigthea na hernaile so do ro dilse.

RIGHT OF WATER.

i.e. the ditch of the water which is drawn to the mill, when it is in its lawful condition. In consequence of the general nature of these embankments, it is not easy to sue their lords for trespasses; or they are erections concerning the construction of which authors have laid down no defined mode of construction;[1] and if a man has made them as lawfully as he was able, they are lawful erections. **The ditch of a turf bog,** i.e. the ditch out of which the sods of turf are taken, i.e. the pits, i.e. at which there is no warning *notice of* danger. **The ditch at a bridge,** i.e. a ditch which is close to the head of the bridge. **For from this out,** i.e. from these particular things out he shall pay fine for every injury caused by every ditch in his land which is unlawfully made. **By each ditch,** i.e. which one makes in his land. **Who has sustained injury,** i.e. to the person who has been truly injured by it, i.e. who has been overwhelmed with water. **For every surety,** i.e. it was ordered upon every surety, unless these things were established as immunities.

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[1] *Have decided nothing.* Or it may mean, "have left nothing decisive in their writings as to the construction of them."

maiġne.

PRECINCTS.

MAIĠNE.

PRECINCTS. Ro bai turcomrag fer nerenn a sliab fuait, no cuilt, a maiġi breġ .i. a nespoic ocus a nollamain, ocus a flaṫa, ocus filiḋi, ocus a suiṫi, ocus a seanori. Ocus ro mesamnaiġ isin dail sin maigin set do gaċ graḋ itir graḋ ecailsi ocus tuaiṫi; ocus ro scribaḋ ag feraib erenn a cas mor na sean aní so; ocus ísi só eiside .i. boaire laiċ innraic, mear a ḋigona .i. ro meisaṁnaiġ maigin dígona oaċ graḋ.

In cnairseaċ, da dorn deg itir a hiarann ocus an baile a negarṫar a haḋarc fuirre a foċair .i. a hurlann. Ocus an turcar cuires uaḋa an boaire ḋí sin ocus aé na truiġi a ndorus a tiġi, ocus arí sin maigin digona in boaire um a setaib; ocus a ḋa cutruma don airedesa; ocus a dublad sin do gaċ graḋ ó ṫsin suas go rí tuaṫ .i. ceṫre hurcair ocus tri fiċit do rí thuat. Ocus frisin saiċe meísamnaiġṫar na hurcair so do gaċ maigin digona. Ocus is as do leigi iat, as a ninat a ngnaṫdais [beiṫ] ana suiġi dosger.

Rí ruireċ; acaside bid riġa .i. rí cuicid, ocus rí erenn, an airat ro soiċ a scor siḋe for gaċ leiṫ, ocus

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[1] *Inviolable precinct.*—'Diguin' and 'maigin digona' seem to mean the same thing.

PRECINCTS.

PRECINCTS.

There was a meeting of the men of Erin at Sliabh Fuaid, or Cuilt, in Magh Bregh, i.e. their bishops, and their 'ollamhs,' and their chieftains, and their poets, and their sages (*literary doctors*), and their seniors. And at that meeting there was ordained a precinct of 'seds' for every grade, both church grades and lay grades; and this was written by the men of Erin in the great 'Cas' of the ancients (*i.e. the Senchus Mór*); and this is it, i.e. *as to* a worthy lay 'bo-aire'-chief, the estimation of his inviolable precinct,[1] i.e. the inviolable precinct of each grade was estimated *as follows*:—

The spear[2] *measures* twelve fists between its iron *head* and the place where the horn is put upon its extremity, i.e. *the extremity* of its handle. Now[a] the shot of this which the 'bo-aire'-chief casts as he sits in the door of his house is the *extent of the* inviolable precinct of the 'bo-aire'-chief respecting his 'seds'; and the 'aire-desa'-chief has twice this extent; and every grade from that up to the king of a territory has double it, i.e. the king of a territory has sixty-four shots *as the extent of his inviolable precinct*. And it is by the 'green' these shots are measured for every inviolable precinct; and where they (*the shots*) are discharged from is, from the place where they (*the parties*) constantly sit.

[a] Ir. *And.*

A king of kings: it is he that has kings, i.e. the king of a province, and the king of Erin, and also the 'coarb' of Patrick; as far as their 'scor'-lands[3]

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[2] *The spear.*—'Cnaıꞃꞅech' in other passages would appear to mean some sort of sledge or hammer.

[3] *Scor-lands.*—'Scor' is glossed 'maġ' .ı. 'Cluaın'; that is, a plain, a meadow.

PRECINCTS. — for comarba patraic, ocus así sin a maigin digona. Ocus is amlaid umorro, do na gradaib ocus ecailsi, ocus ecna, ocus filid, act diablad de eclais glain iti pennait ocus epíc, gin go fuil diablad maiġne.

No araile: mile ceimenn maigin naím, no espuic, no aibillteora, no deorai de, ciḋ for aċaiḋ béit, ocus dá mile do gaċ caṫair aṫaiġ uais. Is mo díguin na ngraḋ necailsi in trat toċlaiġit cain im .uii. cumala doiḃ .i. in deṫbir eneclainne fuil itir ín espuc ocus na graḋ ecailsi fil saiḋ, gurab í sin deṫbir bes eturra do maigin.

Egmaċt, ainfis, ainfaitces, ni forbrad dire ta faoṫ forais.

Ciḋ is fis, ocus ciḋ is anfis, ocus ciḋ is aincis, ocu ciḋ is aiṫgin, ocus ciḋ islan, a leiṫ reis in comairce ?

Nin—Isseḋ is fis ann, a beiṫ ar comairce, ocus d fitir tairgsin dlige aigi, ocus a ḃreiṫ a riċt cruiḋ i duine sin fein. Ocus iseḋ ís anfis ann, a mḃreiṫ riċt cruid na raib for comairce. Ocus ised is aince ann, an tan nar fead croḋ an dilsi [g] na raib fo comairce no go rug croḋ ro bai for comairci. Ocu ised is aiṫgin ann, a mḃreiṫ a riċt a cruiḋ fein Ocus ised islann ann, an tan is ainfis, no is dia tsaruġ, no is comairce ḃorḃlaċais.

Na daine ata ar comairce, ma ro gabsat daine ail

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[1] *Cathedral.* In C. 194, 'caṫair aṫaig' is explained "a church in whic there are the three grades, i.e. a bishop, a professor, and an 'airchinnech.'"

[2] *In the shape of that very man's cattle.* That is, supposing them to be that man cattle.

[3] *In the shape of his own cattle.* That is, supposing them to be his own cattle.

PRECINCTS.

extend on every side, that is their inviolable precinct. And so also *it is* for the church grades, and *those* of wisdom, and the poets, but a pure church has double, both as[a] penance and 'eric'-fine, though it has not double *the extent* of precinct.

[a] Ir. *Between.*

Or another *version*; one thousand paces *is the extent of* the precinct of a saint, or a bishop, or a hermit, or a pilgrim, if it be in the plain, and two thousand *paces* for the precinct of every noble cathedral.[1] The inviolable precinct of the ecclesiastical grades is greater when they demand law respecting seven 'cumhals' *being due* to them, i.e. the difference of honor-price which exists between the bishop and the ecclesiastical grades that are under him, is the difference that shall be between them as regards precinct.

Impotency, ignorance, inadvertence, do not increase the 'dire'-fine beyond 'faoth forais.'

What is knowledge, and what is ignorance, and what is difficulty, and what is compensation, and what is exempt, respecting the protection?

Answer—Knowledge means[b] *to know* that he is under protection, and to know that law was offered by him, and to take *his cattle* in the shape of that very man's cattle.[2] And ignorance means[a] to take them in the shape of cattle which were not under protection. And difficulty means[b] when he was not able to take the cattle of the culprit which were not under protection until he took cattle which were under protection. And compensation means[b] when he took them in the shape of his own cattle.[3] And *the case of* exemption arises[c] when it is *a case of* ignorance, or forcible violation, or unlawful protection.

[b] Ir. *Is.*

[c] Ir. *Is.*

If the persons who are under protection have taken other persons to them under protection, and if it is

PRECINCTS. cuca ar comairce, aċt mas as a ndualgus fein do níat a comairce, islan a saruġ, mar a deir so; Díguin digona; ní snaiġi deora araile; ni dlig neċ fiaċ a ndig [uin] amus.

Mas a dualgus in tí ar a fuil comairce do ní sé a comairce, is leṫ eneclann dó ina tsaruġ; ocus leṫ eneclann do a sarug a primmna ocus a mic gor, ocus trian nenneclainne do a saruġ a mic saorleici, ocus gaċ duine dia muintir aontiġi.

Ocus noċa neisum ro earb riu an comairce do denam annsin, ocus da mad é, do beṫ lan eneclann dosom unnta siḋe.

Ma ro airbertnaiġestair neċ dia muintir a comairce ina égmais; masa duine naċ fuil sailaċtain umscair ris, is trian eneclainne don riġ ina tsaruġ, ocus ní fuil do fein ina ṫaruġ aon ní.

Ciḋ fo dera go naċ fuil ní do a sarugad amais um a comairce ina égmais sunn, ocus gona fer muinntiri do é, ocus go fuil trian neneclainne do isin fut feinaċais a saruġ a mic ocus gaċ duine dia muinntir ina egmas?

Is é an faṫ; Daine naċ doiċ do dul uada aċt le deṫberes; is air ata ní ḋo ina sarugh.

Is aire na fuil ní do a saruġad aṁais, uair is doiġ a dul uaḋa gin deṫberes.

An duine tug an dilseċ ón altoir iars na reaib

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[1] *Son under his control.* This seems to be the meaning of 'mac-gor' here; elsewhere it means "a sister's son."

[2] *For violating them.* That is for violating their protection.

on their own account they afford the protection, it is lawful to violate it, as this *rule* states: "Sanctuary of sanctuary; one pilgrim does not protect another; no one is entitled to fines for the violation of *the protection of* his hired soldiers.

If it is on account of him under whose protection he is he affords the protection, it is half honor-price *that is due* to him for the violation of it; and it is half honor-price *that is due* to him for the violation of *protection in case of* his first wife and his son under his control,[1] and a third of honor-price for the violation of it in the case of his emancipated son, and of every person of his family in the same house.

And it was not he (*the owner of the precinct*) that ordered them to afford the protection in this case, and if it was, he would have full honor-price for them.

If any one of his people pleaded his protection in his absence; if he be a person who has no expectation of separation from him, it is one-third of honor-price that is *due* to the king for violation in his case, and he shall have nothing himself for the violation *of his protection.*

What is the reason that there is nothing *due* to him for the violating of *the protection of* his hired soldier, respecting his protection in his absence in such case,[a] and because he is a man of his family, and that he has one-third of honor-price in the extent of the 'Fenechus' law for violating *the protection of* his son and every one of his family in his absence?

The reason is: They are people who are not likely to go away from him except by necessity; it is for this reason that a fine[b] is *due* to him for violating them.[2]

The reason that nothing is due to him for violating *protection in case of* a hired soldier is, because it is likely that he will go away from him without necessity.

The person who carried the culprit away from the

[a] Ir. *Here.*

[b] Ir. *A thing.*

PRECINCTS. gin airgsin dlige, ocus nocar sail faġa nina aile, iseḋ fo dera a ṫslainti do.

Caiti comairci a caemteċt? .i. uair noċ fuil an comairce gin tairgsin dlige .i. tairgsin dlige a leiṫ re creaċaiḃ ocus re cneaḋaib, ocus re fuiliṫaiḃ, ocus re comairce, et ailia similia.

Seċt cumala do smaċt, ocus lan eneclann do na huaisli a marbaḋ for a comairci, ocus a leṫ do na hislí; ocus gell na coirrdire a laim na comairce.

Na huile cneda uilidi, oċa bas go banbeim, go naṫgabail an bais, ocus gin aṫgabail an banbeim, a leṫ smaċt buḋein don coṁairce, fo aicne isil no uasail; ocus in tainmrainne da eneclann fein fuil don tí ar ar fera in cneḋ no in fogail, fo aicne robaig no eisce, gurab e an tainmrainne sin da eneclann fein bes don comairce ann. Ocus noċa fuil deṫbir roba na eisce ris in comairce uime ín smaċt.

Ciḋ bias isin nurgabail tria eisce?

Ceṫraime eneclainne dona huaislib, ocus leṫ eneclann do na hislib, ocus aiṫgin.

Ciḋ bias isin beoguin tria eisce?

Mas uasal for comairce isil, no ísal for comairce uasail, da trian a neneclainne fein do na uaislib, ocus a leṫ eneclann fein do na íslib, ocus aisic na set rugaḋ do muin na comairce in gaċ ina[d] diḃ sin. Mas isil for comairci isil, lan eneclann do ceċtar de.

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[1] *Their own honor-price.*—Nearly the remainder of the column in the MS. (about one-half of the whole), is in a different hand.

altar, after the terms (*specified times*), without offer of law, is exempt,[a] because he could not expect to find him in any other place.

What is protection as to reciprocal rights? i.e., because there is no protection without offer of law, i.e. offer of law with regard to plunderings and wounds and blood-sheddings and protection, et alia similia.

Seven 'cumhals' of 'smacht'-fine, and full honor-price *are due* to the nobles for killing *one* under their protection, and half to the plebeians; and the pledge for the body-fine *shall be placed* in the hand of the protector.[b]

For all wounds, from a death *wound* to a white blow, including the death *wound*, but not including the white blow, half his own '*smacht*'-fine *is due* to the protector,[b] according to the nature of plebeian or noble; and the proportion of his own honor-price, which is *due* to the person upon whom the wound or the injury was inflicted, according to its nature of thrust or cut, is the proportion of his own honor-price which will be *due* to the protector[b] for it. And there is no difference of thrust or cut in the protection with respect to the 'smacht'-fine.

What shall be *due* for the arresting by means of cutting (*wounding*)?

The fourth of honor-price to the nobles, and half honor-price to the plebeians, and compensation.

What shall be for the life-wound through cutting? If it be a noble *that is* under the protection of a plebeian, or a plebeian under the protection of a noble, two-thirds of their own honor-price[1] *are due* to the nobles, and half their own honor-price to the plebeians, and a restoration of the 'seds' which were given on account of the protection in each instance of them. If it be *the case of* a plebeian under the protection of a plebeian, full honor-price *is due* to each.

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[a] Ir. *It is the reason of his exemption.*

[b] Ir. *Protection.*

PRECINCTS. Ciḋ bias deneclann isin mbeoguin comcataiġ caich fo mbithar mama? .i. an tainmrainne ata don ti ar ar fera in cneḋ, gurab é in tainmrainne cédna da eneclann fein bes don comairce a ferṫain cneḋe for a comairce.

A fogla eneclainne a nurrudus, mad cned robaiġ a cain.

Riṫ cairdi ocus dliġi digona go tri nonbara .i. seċt cumala gaċa laime go tri nonbura.

Riṫ cairdi .i. cumal gaċa laime co tri nonbura a ndliġi digona .i. ina sarugad im a comairce.

Riṫ na aiṫgina co cuicer, ocus sliċt sloig .i. ata fiach sleċta sloiġ sund a ndliged digona, ocus isin forlosgaḋ, ocus ni fuil a cain ná a cairde.

Deim peċtaċ an eclais, co ndigsit esti saire daire amail ted, ar ciḋ (i tan inngi mic maithair buiḋe dos nalla iarum fo eiti aċt) .i. diḋne na cintaċa, no diḋnithar na peċtaċa is in neclais co ndigsit esti, co ngabtar feich uaḋa in baile a ndlegar bas .i. islan di in dide res na reib gin tairgsin dliġi a ceċtar de, ocus in didi iars na reib go tairgsin dliġi, ocus in didi ar bas ocus ar inndliġi fiach dogres. Ocus islan di in lesugaḋ ocus in comarleigenn dogres.

In tiḋnacal, umorro, ocus in diten iars na reib gin tairgsin dligi, ocus an dul ar cend na mbiba amaċ, is fiaċh ditin in gaċ ní diḃ sin on eclais. Ocus isiat

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[1] *In 'Cain'-law.* There is some defect in the MS. here.

[2] *For although.*—The MS. is again defective in this place, and the portion of Irish enclosed in brackets has therefore been left untranslated.

PRECINCTS.

What shall be *the amount* of honor-price for the life-wound of a man of equal dignity who is in subjection to any person? I.e. *whatever be* the proportion which is *due* to the person upon whom the wound was inflicted, it is the same proportion of his own honour-price that is *due* to the protector for the inflicting of a wound upon *the person under* his protection.

His divisions of honor-price in 'urrudhus'-law, if it be a wound by thrusting in 'cain'-law.[1] . . .

The "running" of 'cairde'-law, and of the law of sanctuary is to thrice nine persons, i.e. seven 'cumhals' for every hand as far as thrice nine persons.

The "running" of 'cairde'-law, i.e. a 'cumhal' for every hand as far as thrice nine persons in the law of sanctuary, i.e. for violation to a person[a] in regard of his protection.

The "running" of the compensation is as far as five persons, and the track of a host, i.e. the fine of the track of an army is here in the law of sanctuary, and for arson, and it is not in 'cain'-law, or in 'cairde'-law.

The church protects sinners,[b] so that they come out of it free *or* bond, as they entered it, for although,[2]

. . . .

i.e. it shelters the trespassers, or the sinners are sheltered in the church until they come out of it, so that fines are accepted from them where death was deserved, i.e. it is safe for her (*the church*) to protect before the terms (*specified times*) without offer of law in either of them, and to protect after the terms with offer of law and to protect against death and unjust fines always. And she is exempt for entertaining and advising at all times.

As to the escorting and protecting, however, after the terms without offering law, and the going out for the culprits (*assuming their place?*), fines for protecting are *recoverable* from the church in each case of these. And

[a] Ir. *His violation.*

[b] Ir. *A sinner.*

PRECINCTS. daine islan don eclais do leagan as .i. neċ do na dlegar ní. No, is deora na haicilsi nosleiġeḋ as, ocus ni bi a cin siḋe for luċt na hecailsi. No dno, is ana naonar tegait don neclais, ocus tiagait aiste a naonar, ocus is slan don eclais sin, uair dlegar do na gradaib flaṫa biaṫa gin ímcomarc, ocus ni dlegar do na graḋaib feine.

. .

Ní obann ditan ar bas .i. ní obann, no ní diultann neċ do ditan ar bas, ocus ar inndlige fiaċ go tairgsin fiaċ, an tan dlegar bas.

Mana ti aiḋbreḋ, ocus ní uil biatha, muna mo na aon aiḋche ata ar eisceptus don eclais, an baile a ndlegar bas o tuaiṫ gabar feiċ o eclais, ocus ma feiċ o tuaiṫ, islan ag eclais.

Fear cerda, ma fiṫír, ní ba raiṫ feilmic mana biaṫa, no man eiḋiṫar a cumat fir leiġinn .i. in fer do ní an ceird maḋ feiġathair, ma aithair in feiġ aiṫ, na hae, in foirceadail, no aithair na ae, na alaiḋan. Ocus noċa mberait cinta na mac bis ag foglaim foilfeċt aca .i. foġnam fuiḋri no daorceile uaṫaiḃ re re na foglama. Ocus ma mic urraḋa na haiaib so, no mar ar dia do berar dan doiḃ, ni ícait a naitib a cinta; ocus in tan is ar loġ do gniṫar dan doiḃ, icait aitaiḋib.

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[1] *During the term of the learning*, i.e. while they are serving their apprenticeship the pupils or apprentices were obliged to do all sorts of menial work for the master tradesman, such as to put out his dung, reap his corn, feed his pigs, or do any other kind of menial work, which was usually done by the 'fuidhir'-tenant, or the 'daer'-tenant. A good deal more on this subject will be found in the "Cain Lanamhna," Ancient Laws of Ireland, vol. ii., p. 342, *et seq.*

PRECINCTS.

the persons whom it is safe for the church to let escape, i.e. *are* persons of whom nothing is due. Or, *according to others,* it is pilgrims of the church she lets escape, and their crime is not upon the people of the church. Or indeed, *according to others,* it is alone they come to the church, and alone they go away, and that is safe for the church, for the chieftain grades are bound to entertain without asking *questions,* but the 'Feini' grades are not bound.

It refuses not shelter against death, i.e. it denies not, or it refuses not to shelter one against death, and from unlawful *claims for* debts so far as to offer *to pay* the debts when death is deserved.

Unless demand comes, and there is no refection, (unless more than one night is *allowed* as an exception to the church), where death is demanded of the laity, debts *are accepted* from the church, and if *it be a case where* debts *would be accepted* from the laity, the church is exempt.

A man of art, if a professor, cannot be surety for a pupil, unless he has fed him, or unless he has instructed him as long as a lecturer, i.e. the man who exercises the art, if he be a 'feigh-athair' ('the father of sharp art'), science, or teaching, or 'the father of art, or science.' And they do not sustain the liabilities of the sons who are learning their art with them, i.e. the service of a 'fuidhir'-tenant or a 'daer'-tenant is *due* from them during the term of the learning[1]. And if these are the sons of native freemen, or, if they be taught the art for God's sake (*i.e. gratis*), their tutors shall not pay for their crimes; but when it is for a fee they are taught the art, their tutors shall pay[2] *for their crimes.*

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[2] *Their tutors shall pay.* Before the word "ıcaıꞇ," in the MS., a few words occur which are very dim and seem to yield no intelligible meaning.

do breiṫeaṁnus for na huile ċin do ní gaċ cintaċ, sios ana.

OF THE JUDGMENT OF EVERY CRIME WHICH EVERY CRIMINAL COMMITS, DOWN HERE.

DO BREIṪEAṀNUS FOR NA HUILE ĊIN DO NÍ GAĊ CINTAĊ, SIOSANA.

Of every Crime.

Cis lir foḃla for cintaiḃ caċ cintai?
Nin—a seċt.

Cadiat fair fadeisin? Ma nepla, mas fulla, teit for innile do beodile no do mairbdile. Do nach bis on, a cin for athair. Is asurdiu ma bi athair teit a cin for a brathair ocus a deirbḃfine. Mas fullatside cona furtar forra, a ċin for a flaith. Is a surdiu na bi lais, biḋ a cin for a leruiḋ, brait, ocus biud. Is a surdiu, mana arustar for a leruiḋ, bid a cin for riġ. Is de isbearar, caċ dicenn co rí, ar a ċan fenechus, do uidib cinadh cach cintaiġ.

Cis lir foḃla, .i. cia lin ar a nindlither éraic ċinaiḋ in ċintaiġ, .i. eraic a ċinta. Ma nepla, .i. madia nélaiḋ cin ic. Mas fulla, teit for innile, .i. eitir tír ocus innile. Do nach bis on, .i. mana roiḃ annso ón. A cin for athair, .i. uair na bí mac, ar dia mbeċside is fair ro rachaḋ riasiu tisaḋ for athair, uair ata is in coir féine, cén bes fine ar a cinn ni for cula do raiġ. Ina bi athair, .i. mana roiḃ athair ann. For a brathair, .i. ar a dearbḃráṫair. A deirbḃfine, .i. gelfine, in tan na bíḋ derbḃratair. For a flaith

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[1] *Which are they?*—On the left-hand margin of the MS., opposite the words 'cadiat fair fadeisin,' is the remark 'urraiceċt caol so'; 'this is slender uraicecht,' or instruction—a reference to some law tract so called.

[2] *'Coir Feine'-law.*—This was a law of adjustment by which the Feine, or agricultural classes, settled their cases of damage and trespass of cattle, &c. *Vide* C. 27.

OF THE JUDGMENT OF EVERY CRIME WHICH EVERY CRIMINAL COMMITS, DOWN HERE.

OF EVERY CRIME.

How many divisions are there of[a] the crimes of every criminal?

Answer—Seven.

Which are they[1] upon himself? If he absconds, if he has absconded, it goes upon his chattels, of living chattels or of dead chattels. *As to* him who has them not, his crime *goes* upon his father. It is in the case of him who has not a father that his crime goes upon his brother, and his 'deirbhfhine'-relations. If they have absconded so that they cannot be caught, his crime *goes* upon his chief. It is in this case, if he has not *a chief*, that his crime is upon his bed, raiment, and food. It is then, if his bed cannot be found, that his crime is to be upon the king. It is from this is said, "Every headless man (*i.e. without a chief*) to the king," as the 'Fenechus'-law says, of the incidence[b] of the crime of every criminal.

[a] Ir. *Upon.*

[b] Ir. *Journeys.*

How many divisions, i.e. how many are they upon whom the 'eric'-fine for the crime of the criminal is put, i.e. the 'eric'-fine for his crimes. **If he absconds**, i.e. if he absconds without paying. **If he has absconded, it goes upon his chattels**, i.e. both land and chattels. ***As to* him who has them not**, i.e. if he has them not here even. **His crime *goes* upon his father**, i.e. when he has no son; for if there was a son, it is upon him it (*the crime*) should go before it went upon the father. For there is in the 'Coir Feine'-law,[2] "As long as there is a family before him, it is not backwards he sues." **It is in the case of him who has not a father**, i.e. if there be not a father there. **Upon his brother**, i.e. upon his real brother. **His 'deirbhfine'-relations**,[3] i.e. upon his 'gelfine'-relations, when there is no brother. **Upon**

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[3] '*Derbhfine*'-*relations.* For an explanation of this, and 'geilfine,' 'iarfine,' &c., *vide* C. 984, *et seq.*, and *n. p.* 220, *supra.* Also, Ancient Laws of Ireland, vol. iii., p. cxxxix., *et seq*; and Maine's Early History of Institutions, p. 208, *et seq.*

Of every Crime.

.i. flaiṫ bis forsan ngelfine atarulla ann, ocus ní hé is flaiṫ do derḃfine, na do iarfine. Is ċuca ċuinneġar in ċin riasíu co narustar co derḃfine a ro gaḃ a ngiallu. Is asuidiu na bi lais, .i. is do ni aḋa ís in na bi flaiṫ aige. Biḋ a cin for a lepuiḋ, .i. leiṫ ċin, nó lan cin, no trian ċin. Mana arustar for a lepuiḋ, .i. is don iaḋa ísin, mana tarrtaither for a lepuiḋ é. Bid a cin for riġ, .i. biḋ a cin for riġ in cuiciḋ. Is de isbearar caċ dicenn co ri, .i. is de raiter caċ ni gus na bi ábal cenn cinaḋ is do ċum in riġ berar é.

Conbeir cinaid cach brathair co taber deirḃfine. Saiġtech cach fine. Eirentach cach fine iar nelod cintaiġ; do na be deirḃfine foloing taoiḃfine, no iarfine, a flaith, a riġ, a recht; conregat, arrenat, do nimaircet cinta caċ cintaiġ.

Nach deoraiḋ din cintach aslai, na roich in etoil fir flatha, na bi conarustar, uair is diteċtaiġ, diṫir, do rotraid.

Conbeir, .i. commberait, no cainberait caċ brathair iar níc don mac ocus don athair ocaiḃ, no co na biat itir. Co taber derbfine, .i. is taitneṁaċ beres gelfine. Saiġtech cach fine, .i. araḋ ocus trosċaḋ foraiḃ. Eirentach cach fine, .i. eirniḋ caċ fine fiacha iar léco élaiġṫe don cintaċ. Do na be derbfine, .i. mana roiḃe derḃfine ar geilfine aige. Foloing taoiḃfine, .i. imfuilngit fine taoiḃ a brathar. No iarfine, .i. a mic, no aire budein. Is aire fodera cin for derḃfine, ocus iarfine sund riasiu teis fors an flaiṫ, ar is aon flaiṫ fil forra; flaiṫ geilfine imurro, tm̄ tc̄ prius. A flaith, .i. flaiṫ na ceiṫre fine.

Caċ cenn ro ġaḃ a ngiallu no conicfa a ngaḃail, caċ ni ro ġaḃ

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[1] *Prius.* The contracted words here are unintelligible to the editors.

his chief, i.e. the chief who is over the 'geilfine'-division which happens to be there (*in existence*); and it is not the chief of the 'deirbhfine'-division, nor of the 'iarfine'-division. It is on them (*the 'geilfine'-relations*) the crime is charged *by him* before he brings it to the 'deirbhfine'-division from whom he has taken their pledges. It is in this case, if he has not *a chief*, i.e. it is in these cases where he has no chief. His crime is upon his bed, i.e. half-crime, or full crime, or a third of crime. If his bed cannot be found, i.e. in that case, if he is not caught upon his bed. His crime is upon the king, i.e. his crime is upon the king of the province. It is from this is said, "Every headless man to the king," i.e. it is from this is said, that everything that has not a great head for[a] *sustaining liability for* crime, it is to the king it is brought.

Every brother bears crimes until the 'deirbhfhine'-division bears them. Every family is suable. Every family is liable to pay after the evasion of a criminal; when he has no 'deirbhfine'-division, the 'taoibhfine'-division bears it (*the liability*), or an 'iarfiine'-division, his chief, his king, his law; they bind, they pay, they bear the crimes of every criminal.

Every exile now who as a criminal absconds, who has not gone away in violation of his oath to a chief, who is not to be made amenable, because he is without possession, without land, is put upon the road.

Every brother bears crime equally, i.e. equally, or beautifully each brother bears it, after it has been paid by the son and by the father, with them (*when they there are such*), or when they have them not at all. The 'deirbhfine'-division bears, i.e. beautifully the 'geilfine'-division bears it. Every family is suable, i.e. notice and fasting *are to be enjoined* upon them. Every family is liable to pay, i.e. each family shall pay debts after the criminal has absconded. When he has no 'deirbhfine'-relations, i.e. if he has not 'deirbhfine'-relations in place of 'geilfine'-relations. The 'taoibhfine'-division bears it, i.e. his brother's side-family shall bear it. Or an 'iarfine'-division, i.e. *the after family* of his son, or upon *the son* himself *if he exists*. The reason why the crime goes upon the 'deirbhfhine'-division and the 'iarfhine'-division here, before it goes upon the chief is, because it is one chief that is over them; *as to* the 'geilfine'-chief, now ꞇm̄ꞇc̄ prius.[1] His chief, i.e. the chief of the four families.

Every head (*chief*) who has taken their pledges or who is com-

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[a] Ir. *Of.*

OF EVERY CRIME. is a cin fair, mana tarrurtar for a fine; caċ aon imurro, na ro gaḃ ocus na caoṁnacair, ni biaḋ a cin fair ceni tarrurtar for a fine.

A rig, .i. rig na tuaiṫe. **A recht**, .i. rig in cuiciḋ. **Conregat**, .i. cumraiget. **Arrenat**, .i. icat mana cumraiġeat. **Do nimaircet cinta caċ cintaig**, .i. timaircither orra sin na cinta do ni gaċ cintaċ.
Nach deoraiḋ din cintach aslai, .i. naċ ar gaċ; nach deora, no náċ diurraiḋ élas iar ndenaṁ cinaḋ **Na roich in etoil fir flatha**, .i. mad toil naime don toil slaḃra na flaṫa. **Na bi conarurtar**, .i. mana roiḃ se co tarrtaither é. **Uair is diteċtaig, ditir**, .i. in tí na teċtann innile [na tir]. **Do rotraid**, .i. raiḋig in breiṫeṁ a ḋul for róṫ.

Cach cin deṫbire do ní duine cenmoṫa marbaḋ, dia tarrurtar fair, is éric uaḋa buden co ro tocaiter ór ocus airged ocus innile ocus a ṫír inn; ani bis fair cin éiric, is íc dia fine amuil coḃrannait cró.

Mana tarrtaither fair, is íc dia fine iar tocaiṫeṁ a tire siṁ inn, amuil coṁrannait cró.

Maḋ marḃaḋ deṫbire, cenmoṫa na ceithre gona duine deṫbire in corusa fine, .i. guin in mic derḃfine, guin dalta na fine, guin mic faosma, guin mic mna fine; cia tarrurtar fair gi ni tarrurtar, is íc dia fine aṁuil comrannat cró, ocus ícaiġsoṁ cumal aithgena, ocus cutruma fri mac no athair, do na sé cumala dire.

Ciḋ armaḋ fair aonar dechsad gaċ cin do gní duine cenmoṫa marbaḋ maḋ dia mbe oga a íc?

Nin:—Ar ciḋ fris aonar do gniter olc, cenmoṫa marbaḋ, is fris aonar ícfaither. Gaċ marbaḋ imurro do gni, ni hé

petent to take them : *for* every thing which he has taken, his crime is upon him, if it cannot be charged upon his family ; *as to* everyone, however, from whom he has not taken *a pledge* and could not *take it*, his crime shall not be upon him, even though it be not charged upon his family.

His king, i.e. the king of the territory. **His law**, i.e. the king of the province. **They bind**, i.e. who bind. **They pay**, i.e. they pay unless they bind. **They bear the crimes of every criminal**, i.e. the crimes which every criminal commits is visited upon these.

Every exile now who as a criminal absconds, i.e. every *is* for each, every exile, or every non-native, who absconds after committing a crime. **Who has not gone away in violation of his oath to a chief**, i.e. who has not consented to bonds, who is not willing to take the chain of the chief. **Who is not to be made amenable**, i.e. if he is not so *placed* as to be held accountable. **Because he is without possession, without land**, i.e. the person who does not possess chattels nor land. **He is put upon the road**, i.e. the judge orders him to go upon the road.

As to every crime of necessity which a person commits except killing, if it is visited on himself, the 'eric'-fine is *raised* from him until *his* gold, and silver, and chattels, and his land are exhausted for it ; what he owes[a] besides 'eric'-fine is to be paid by his family, in the proportions in which they divide his property.

If it (*the payment*) is not found with himself, it is paid by his family, after his land has been spent in it, in the proportions in which they divide his property.

If it be a necessary killing, except the four necessary woundings of a person in the 'corus fine'-law (i.e. the wounding of a son of the 'deirbhfine'-division, the wounding of a foster son of the family, the wounding of an adopted son, the wounding of the son of a woman of the family) ; whether it (*the means of payment*) be found upon him, or be not found upon him, his family are to pay in the proportion in which[b] they divide his property, and he pays a 'cumhal' of compensation, and an equal share with father or son, of the six 'cumhals' of 'dire'-fine.

What is the reason that it is upon himself alone every crime that a person commits goes, except killing, provided he has the means of paying for it[c] ?

Answer : Because though it be against him alone evil is done, except killing, it is to himself alone it shall be paid. Every killing however which he commits, it is not he alone that shall pay *for*,

[a] Ir. *Is on him.*

[b] Ir. *As.*

[c] Ir. *Its payment.*

OF EVERY CRIME.

aonar icfus cia beiṫ oga, aċt teís for fine; ocus ise in fáṫ ón; ar ciḋ eisiṁ no ciḋ a mac nó marḃṫa, is fine uile nó beraḋ coirpdire neċtar de, ocus ni ba a mac no aṫair tm̄.

Caċ cin indeṫbiri imurro, do gni duine itir marbaḋ ocus anaill [no faill] is e fadeisin inn, ocus innile. Manatarrustar fair imurro, mana be a íc ann, is íc dia mac, co ro tocaiter a innile, ocus a tír inn.

Mana be a íc ann beos, is íc dia athair fon coir cetna.

Mana be a íc ann beos, is íc do gaċ teallaċ is nesa co roisc a mbe oca, co ro lan íc in cinuiḋ uaḋa; ocus is aire icus gaċ tellaċ is neso, uair is indeiṫbir in cin sin budein, uair naċ é do ronsat in cinaiḋ.

Mad diḃ deiṫbire; deithbir cia gelltar; gelltar gola, luiġe sealḃ setaiḃ; sruithe daon dioḃaḋ; ferr fer orba.

Mad diḃ deiṫbire, .i. maḋ diḃ airneiter ann do na cintaiḃ deiṫbire. Deithbir cia gelltar, .i. is deiṫbir cia gelltar a feronn de ina cintaib deiṫbire. Gelltar gola, .i. gelltar de é on ġola, on cuiṫe. Luiġe sealḃ setaiḃ, .i. tuite ḟeronn [ocus innile] ina cintaiḃ deiṫbire. Sruithe daon dioḃaḋ, .i. is uaisle in taon sin inás a dibaḋ set ocus maíne. Ferr fer orba, .i. is ferr in fer sin inas in feronn in tan is cin deiṫbire.

A chinta indeithbire uile itir marbaḋ ocus gan marbaḋ a scuiṫi inn ar tus, ocus sé budein ina deġuiḋ; ocus ma ta imarcraiḋ ann, a ḋul isin teallaċ is neso. Ocus a roġa don fine inné a dilsiuġ fein do denat ocus in feronn do beṫ acu, nó ine in feronn do bérad is in cinuiḋ; ocus a roġa na fine ata sin.

[1] *Or neglect.*—The Irish in brackets is written by another scribe over the word 'anaill,' implying the writer's opinion that the reading should be 'an faill, the neglect.' See, however, p. 268, *infra*, line 3.

Of every Crime.

though he has *the means of paying for* it, but it goes upon the family; and this now is the reason: because, though it were himself or his son that had been killed, it is the whole family that would take the body-fine of either of them, and not his son, or father, in the case.

As to every unnecessary crime, however, which a person commits, whether killing and otherwise (or neglect),[1] it is himself that is *accountable* for it (*in his person*), and his chattels *and his land.* If it (*means of payment*) is not found with him, if he has not the payment for it, it is to be paid by his son, until his chattels and his land are exhausted for it.

If payment is not here even (*in the son's power*), it is to be paid by his father in the same manner.

If payment is not even here (*in the father's power*), it is to be paid by every next hearth until it reach what there is of them; until the full payment of the crime is made by them; and the reason why each nearest hearth pays is, because that itself is an unnecessary crime, since it was not they that committed the crime.

If it is of *cases of* necessity;[2] it is necessity though pledged. There is a pledge as to prison, property and 'seds' go. *This* one *man* is nobler than 'dibadh'-property. A man is better than land.

If it is of *cases of* necessity, i.e. if it is of these mention is made in the case of the necessary (*or unintentional*) crimes. Necessity though pledged, i.e. it is necessary if his land be pledged on his account for his necessary crimes. There is a pledge as to prison, i.e. there is a pledge to redeem him from the prison, from the pit. Property and 'seds' go, i.e. his land and his chattels are forfeited for his necessary crimes. *This* one *man* is nobler than 'dibadh'-property, i.e. this man is nobler than his 'dibadh'-property in 'seds' and *other* goods. A man is better than land, i.e. this man is better than the land, when it is *a case of* a crime of necessity.

In all his unnecessary crimes, both killing and not killing, his movables *go* first for it (*the crime*), and himself afterwards; and if there is an excess (*more than he can pay*), it goes upon the next hearth. And the family have the choice whether to hand him over and have the land to themselves, or whether they will give the land for the crime; and it is within the choice of the family this lies.[a]

[a] Ir. *Is.*

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[2] *If it is of cases of necessity.*—In the MS. on the right hand margin opposite this paragraph, occurs the note, 'Coꞃuꞅ ꝼine ꞅo.' This is "Corus Fine" (Family Law.) The paragraph, like many other fragments of text in the present volume, appears to have been originally in metre.

Of every Crime.

A ċhinta deiṫbire marḃta, a scuiṫe in ar tus ocus a annscuithe ina deġuiḋ, ocus é fein ina deġuiḋ side; ocus ma ta imarcraiḋ ann, a ḋul ar ċúiger na geilfine.

A cinta deiṫbire gan marbaḋ, a scuiṫi inn ar tus, ocus a andscuithe ina deġuiḋ, ocus as e fein in a deaġuiḋ féig; ocus ma ta iomarcraid ann, a dul isin tellaċ is nesa fuitit ann.

Ciḋ fo dera a cinta deiṫbire cen marbaḋ do dul isin tellaċ is nesa, ocus a cinta deiṫbire marḃta do dul ar cuiger na geilfine?

Is e in faṫ fo dera; da ferṫa beocneaḋ air, da mbeṫ tiruairsi deiric na beocneiḋe sin gan ċaithem gan toḃach in tan is marḃ e, is e in ti is nesa no beraḋ é. Coir no deiriḋe a ċinta deiṫbire gan marbaḋ do dul isin tellach is nesa; ocus da marḃta é, do beraḋ gaċ fer do cuiger na geilfine urrannus da coirpdire. Cóir no deiriḋe in cin deiṫbire marḃta do biaḋ aigi ciamaḋ ar cuiger na gelfine do dechsaḋ.

Ciḋ fo dera a cinta indeiṫbire itir marbaḋ ocus gan marbaḋ do ḋul isin tellaċ is nesa?

Is e in faṫ fo dera; dá mbeiṫ dibaḋ aige, ise in ti is nesa do ro beraḋ é; cóir no deiriḋe cia no dechsa a cinta indeiṫbire uile, itir marbaḋ ocus gan marbaḋ, isin tellach is nesa.

Iseḋ is cin indeiṫbire sunn cin coṁraite. Iseḋ is cin deiṫbire ann is in cosus fine cin ansoit, no indeitbire torḃa.

Is lor limsa de loġ fir is a faill fiacha.

.1. Is lor limsa de sin, a loġ do fiaċaiḃ in fir do riġne in faill.

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[1] *Necessary profit.*—The Irish means "unnecessary profit," which is plainly a mistake of the scribe.

OF EVERY CRIME.

As to his necessary (*or intentional*) crimes of killing, his movable property *goes* for it (*the crime*) first, and his immovable property afterwards, and himself after that; and if there be more *to be paid* in the case, it (*the excess*) goes upon the five men of the 'geilfine'-division.

In the case of his necessary crimes, except[a] killing, his movable property *goes* for it (*the crime*) first, and his immovable property after it, and it is himself after this; and if there is more *to be paid*, it goes upon the nearest hearth that happens to be there.

What is the reason that his necessary crimes, except *in case of* killing, go upon the nearest hearth to him, and that his necessary crimes *in case* of killing go upon the five persons of the 'geilfine'-division?

The reason of it is: if a life-wound had been inflicted upon him, if a residue of the 'eric'-fine of the life-wound had remained unspent *or* not recovered at the time when he is dead, it is the person nearest to him *of kin* that would take it. It is proper accordingly that his necessary crimes, except[a] killing, should go upon the nearest hearth; and if he had been killed, each man of the five men of the 'geilfine'-division would take a portion of his body-fine. It is proper accordingly that the crime of necessary killing which he might have *incurred* should go upon the five men of the 'geilfine'-division.

What is the reason that his unnecessary crimes, whether killing *or* not killing, go upon the nearest hearth?

The reason of it is: If he had 'dibadh'-property, it is the nearest person to him that would take it; it is proper accordingly, that the whole of his unnecessary crimes, both killing and not killing, should go to the nearest hearth to him.

What constitutes[b] an unnecessary crime in this case is an intentional crime. What constitutes[b] a necessary crime in the 'Corus fine'-law is an unintentional crime, or *a crime* of necessary profit.[1]

Sufficient with me[2] accordingly is the value of the man by whose neglect the debts are *incurred*.

That is, sufficient with me, accordingly, *is* value of the debts of the man who committed the neglect.

[a] Ir. *Without.*

[b] Ir. *Is.*

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[2] *Sufficient with me.*—On the left-hand margin of the MS. opposite this fragment of text occurs the notice, "Cαın Coꞃmαıc ꞅo, ocuꞅ ıꞅ ᵹαolṁαꞃ." "This is Cormac's 'Cain'-law, and it is akin" (related).

Of every Crime.

Loscaḋ anfoit, no indeiṫbire torḃa so, ocus do nither trocaire ris, o ro sia lan in marḃta, coná téit tairis; ocus nocha dentar trocaire ris co ro sia lan in marḃta.

Gaċ cin do gni duine tre indeiṫbir torḃa, ciḋ mo, ciḋ lúġ, ciḋ cutruma inna, is a ḋul féin inn mana ḃé éiric oca, co nderna loġ seċt cuṁall do foġnuṁ.

Maḋ mó inna, nó má cutruma fris, noċa nderna loġ in ċinuiḋ maḋ luġa inda. Ce beṫ eiric oca itir, mad mo inda féin in cin do gne, it seċt cumala uaḋa inn a trocaire; a etrocaire imurro, lan ic in cinaḋ, dia mbe oga.

La cro tuilleḋ naitreḃnai

.i. Is mo eiseig na seċt cuṁala, loscaḋ coṁraite é, ocus deoraiḋ frecair in duine, ocus ro ícta a seċt cumala coirpdire ré flaiṫ, ocus a ṡeċt cumala peinne re heclais, ocus a di cumail cairde gaċa leiṫe do na ceiṫre leiṫe; ocus se do marbaḋ ina cinta coṁraite. Ocus a deir is in corp, baḋaḋ cach ina ċinaiḋ .i. eibliḋ cach iná cintaiḃ coṁraite in tan na faġaiḃ éiric.

Sect cumala for nech loiscer tre anfot, no a loġ [foġnuṁa] do dénaṁ, ma cutrama fri loġ seċt cumala, no ma mó nas millter; ma luġa imurro innait seċt cumala millter ann, is a certloġ dic.

Ar trocaire ann sin, ocus ni teit a ċin for fine in gcein bes in tí do roinni ar aird, no o tarrustar fair. In tan na bi nectar de, is ann téit for fine, ocus icait na seċt cumala.

This is *a case of* burning by inadvertence, or unnecessary profit, and leniency is exercised towards him, so that when it (*the fine*) reaches the full *amount* for the killing, it goes not beyond it; and leniency is not exercised towards him until it (*the fine*) reaches the full *amount due* for the killing.

As to every crime which a person commits for unnecessary profit, whether it be greater, whether it be less, whether it be equal, he himself goes for it, if he has not 'eric'-fine, until he has performed the value of seven 'cumhals' of service.

If it is greater than, or if it is equal to him, he does not perform *service equal to* the amount due for[a] the crime, if it is smaller than him*self*. Though he have the 'eric'-fine, however, if the crime which he commits be greater than himself, it is seven 'cumhals' that are *due* from him for it, in *case* leniency *is shown*; the severity of the case however, is, the full payment of the crime, if he has it.

[a] Ir. *Value of.*

To death dwellings add.

That is, this is more than seven 'cumhals,' it is a wilful burning, and the person is an outlawed stranger, and his seven 'cumhals' of body-fine have been paid to the chief, and his seven 'cumhals' for penance to the church, and his two 'cumhals' for 'cairde'-relations to each side of the four sides; and he is to be killed for his wilful crimes. And it says in the text[b]: Every one dies for his crimes, *i.e.*, every one dies for his wilful crimes, when he does not get 'eiric'-fine (*is not allowed to compensate by paying 'eiric'-fine*).

[b] Ir. *Body.*

There is a fine of seven 'cumhals' *imposed* upon a person who burns by inadvertence, or *he is* to perform the value of it (*the thing burned*) in service, if what has been destroyed be equal to the value of seven 'cumhals,' or if it be greater; if what has been destroyed in the case be smaller than seven 'cumhals,' it is its exact value that is to be paid.

This is for leniency, and his crime does not go upon his family as long as the person who has done it is forthcoming, or when it (*the fine*) is found with him. When neither of these is *the case*, it is then that it (*the fine*) goes upon the family, and they pay the seven 'cumhals.'

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[1] *An outlawed stranger.*—For the meaning of this term, *vide* Ancient Laws of Ireland, vol. 3, pp. 381, 383, and note 1, p. 382.

OF EVERY CRIME.

Gaċ uair is lorcaḋ coṁraite is clía nuḋ neċt. Gaċ uair is lorcaḋ anfoit is clia laṫraċ naile. Caċ uair is mo in aiṫgin na lan in marḃta, do níṫar trócaire re urraḋ im lan in marbaiḋ do gabail uaḋa; ocus amuil do níter re urraḋ, is aṁluiḋ do níter re deoruiḋ ocus re murcurta ocus re daor.

Lorcaḋ anfoit no indeiṫbire torba so; ocus trocaire do rinne ris cin dul tar lan in marḃta, tar seċt cumala ann sin. Isi in trocaire dilgaḋ, no timdibe aneich dleġar ann.

Deiṫbir itir dilgaḋ ocus timdibe: dilgaḋ .i. cin anfoit no indeiṫbire etorba fri fine; ocus timdibe cin anfoit fri eċtar fine.

Aithgin is ini loiscter tre indeiṫbir torba, no mana talla fair ar méit na aiṫgina, uerbi gracia, ardmacha do lorca, is e fein inn no seċt cuṁala. Máḋ tria coṁraite imurro, is lan dire la aiṫgin inn; ocus rith for an dire co trí seotu beos .i. lan dire ocus leṫ dire ocus trian dire.

Acht cum ae atait ceiṫre gona duine deiṫbire nad eillnet coimge laime, 7rl.

.i. Ata aċt lim ann, an aei, no ar aiḋe co fuilit ceiṫre daine is deiṫbir do guin; ocus nocha tabuir eillneḋ cinuiḋ ar nech cin co derna comoiġe no coṁmartaine riu olcena o laiṁ.

I ndigail fir derḃfine, coirpdire ocus eineclann dleġait in fine in a marbaḋ; aċt mad do riaċt an eiric doiḃ riasiu do

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[1] *A new clean frame.*—For 'clia' of the text, O'D., 590, reads 'cliaṫ,' 'a hurdle.' This was required when the building had to be restored, and upon new ground altogether. For sundry regulations on this subject, *vide* O'D., 590.

[2] *Compensation is made.*—On the right-hand margin of the MS. opposite this

Whenever it is an intentional burning it must be a new clean frame.[1] Whenever it is a burning by inadvertence, it must be a frame upon the site of the former. Every time that the compensation is greater than the full *fine* for the killing, leniency is exercised towards the native freeman, as regards accepting the full *fine* for the killing from him; and as is done to the native freeman, so it is done to the stranger and the foreigner[a] and the 'daor'-person.

[a] Ir. *Seasent.*

This is a burning by inadvertence or for unnecessary profit; and it was leniency that was exercised towards him in not going beyond the full (*penalty*) for the killing, beyond seven 'cumhals,' in the case. The leniency is forgiveness, or curtailment of what is due *of him* for it.

There is a difference between forgiveness and curtailment: Forgiveness, i.e. a crime of inadvertence or unnecessary profit against the family; and curtailment, *i.e.* an unintentional crime against an extern family.

Compensation *is made*[2] for what is burned through *an idea of* necessary profit, or if it (*the penalty*) falls not on him according to the greatness of the compensation (verbi gracia, to burn Ardmacha), it is he himself *that goes* in *lieu of* it, or seven 'cumhals.' If it (*the burning*) is *done* intentionally, however, it is full 'dire'-fine, with compensation *that is paid* for it; and the 'dire'-fine is to advance to three 'seds' besides, *i.e.*, full 'dire'-fine and half 'dire'-fine and a third of 'dire'-fine.

But there are four necessary woundings of a person, which defile not the purity of the hand, &c.

That is, I make an exception[3] in the case, for, or because that there are four people whom it is necessary (*or justifiable*) to wound; and it does not bring defilement of crime upon a person though he does not preserve purity or lenity towards them in general from his hand.

In avenging[4] a man of the 'deirbh-fine'-division, it is body-fine and honour-price the family are entitled to for the killing of him; but if the 'eric'-fine has been paid[b] to them before they effected the

[b] Ir. *Reached.*

commentary, occurs the note, "uɼaicecτ caol mbec; slender little 'uraicecht' (instruction)."

[3] *I make an exception.*—On the right-hand margin of the MS., opposite this commentary, is found the note, "coɼuɼ ꝼine": (family law.)

[4] *In avenging.*—This was where the family of the slain man slew the slayer, or some one in his place.

Of every Crime.

riġnires in digail fir derḃfine, icaḋ in fine coirpdire ocus eineclann amaċ fo cutruma.

Mana torraċt an éiric doiḃ eitir, riasiu do ríġneres in digail, ocus targus dligeḋ doiḃ, toiḃget coirpdire ocus eineclann eturra fein tall fo cutruma, ocus roinnit eturra fo leṫairde é .i. athair ocus mac leṫ doiḃ dinairc.

Mana torraċt, no mana targus dlíġeḋ doiḃ itir, ocus ni torraċt ín eiric doiḃ eitir riasiu do riġnires in digail, is slan doiḃ e co trian, ocus toiḃget trian amuiġ, ocus toiḃget da trian eturru féin tall fo comairde; ocus coṁroinnter eturru fein fo leṫairde .i. athair ocus mac let doiḃ 7rl.

Ocus is doiḃ is digail fir derḃfine é do cuiger na gelfine. No dono, comaḋ digail ċoir do gac aon do dleisiḋ foġail eineclainni ina marbaḋ.

Digail dalta na fine.

.i. In dalta ocus in gormac. Foḋla eineclainni dleġait in fine ina marbaḋ side; ocus mad do riaċt doiḃ na foġla eineclainni dlegait riasiu do ronsat in digail, icait coirpdire ocus eineclann amach fo cutruma.

Mana torract doiḃ na foġla eineclainni dleġait riasiu do ronsat in digail, ma targus dligeḋ doiḃ, is comardug cen frithire itir in coirpdire ocus in eineclainn dleaġar diḃ, ocus na foġla eineclainni dleġait; ocus ciḋ be diḃ oca mbe an imarcruid, icaiġ re ċeile.

Mana targus dligeḋ doiḃ itir, ocus ni torraċt doiḃ na foġla eneclainne dleġait riasiu do ronsat in digail, islan doiḃ é co ruige a trian, ocus comardug itir in da trian coirpdire dleġar diḃ, ocus na foġla eneclainne; ocus ciḋ be diḃ oga mbe an imarcruiḋ, icad re ceile.

Dalta coitcenn don fine uile sin; no ciḋ dalta daon duine diḃ, e combeṫ fogail eneclainne do gaċ fir don fine ina

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[1] *The sister's son.* *Vide* note 1, p. 230, *supra*.

avenging of the man of the 'deirbhfine'-division, the family pay body-fine and honor-price out equal to it.

If the 'eric'-fine had not been forthcoming to them at all, before they took the vengeance, and law had been offered them, they levy body-fine and honour-price among themselves within equally; and they divide it between them unequally, i.e. father and son have one-half[a] by right.

If law has not been given, has not been offered them at all, and the 'eric'-fine has not reached them either, before they took the vengeance, they are safe as regards it to a third, and they levy a third outside, and they levy two-thirds equally among themselves within; and it (*the 'eric'-fine from outside*) is divided between them unequally, *i.e.* father and son have half, &c.

And those to whom belong the avenging of a man of the 'deirbhfine'-division are the five men of the 'geilfine'-division. Or, indeed, *according to others*, that avenging was proper to every one who was entitled to damages *in the way* of honour-price for his being killed.

Vengeance for the foster child of the family.

That is, the foster-child and the sister's son.[1] *It is* damages of honour-price the family are entitled to for the killing of these; and if the honour-price damages to which they are entitled reached them before they had taken the vengeance, they pay body-fine and honour-price out equally.

If the honour-price damages to which they were entitled had not reached them before they had taken the vengeance, *and* if law has been offered them, there is *to be* an adjustment without reprisal between the body-fine and the honour-price which is due from them, and the honour-price damages which are due to them; and whichever of them has the excess, let them pay to the others.

If law has not been offered them at all, and the honour-price damages to which they are entitled have not reached them before they have taken the vengeance, it is safe for them as far as a third, and there is to be an adjustment between the two-thirds of body-fine which is due from them, and the honour-price damages; and whichever of them has the excess, let them pay to the others.

This is a common foster-child of the whole family; or though he be the foster-child of any one of them, there are honour-price damages due to every man of the family for the killing of him. That is,

[a] Ir. *One-half to them.*

OF EVERY CRIME. marbaḋ .i. mac faosma do gelfine, no do deirbfine sin, no ciḋ mac faosma dainfine, co mbeith fogail eineclainni do gaċ fir don fine ina marbaḋ, mad ro badar uile ar aird ag a gabail.

Os dia cuindcestar cuige a eiric, fofocairseom dia fine eiric lais 7rl.

Os dia .i. os ar ocus, mad dia cuinncither a eiric ċuige ar amus in ti do ruġne in digail fir derḃfine. Fofocairseom .i. urḟograiḋ seoṁ dia fine ḟiric lais.

I ndigail fir derḃfine, aċt ma do[t]airgenn fein a lan amach, ocus ro fogair dia fine ic lais, iseḋ dleġar a gabail uaḋa, ocus slan do tar éisi.

Mad ro elosdarsuṁ as a haiṫle, ocus nir gabaḋ uaḋ, ocus ro icsat in fine a cuit tar eisi; in tan tigseom re dligeḋ, icuiḋ aiṫgin a ċota gan los gan as gan inorbairt.

Mad do [t]argaiḋsiṁ fein a lan amaċ, ocus nir fogair dia fine íc lais, ocus ro eloiḋsoṁ, ocus ro icat in fine a ċuit tar eisi, in tan tigsiṁ re dligeḋ icaiḋ aiṫgin a ċota go los, ocus as, ocus inorbairt; ocus icaiḋ lan eineclann in feicheman is ferr don fine; ocus roinnit eturru í fo comairde no fo leṫairde. Ocus eineclann gan leicsin éloiḋte sin; ocus is sí sin in dara eineclann i corus fine gan leicsin elaiġte. No dono, is éloḋ in feicheman is ferr don fine ro leice ann, ocus ín áon eineclainn sin díc ris, ocus a breit do aonar; ocus biaḋ in dublaḋ re taoḃ, cin co tug ar aird, ocus biad eineclann do gac fir don fine is a héloḋ ro leiceḋ and.

C. 393. Caide deiṫbir eturru[so], ocus ín baile ata, 'Fal fine ícus a
O'D. 994. ċaiche [coro nícthar fa cach set ro nícc co na somuine] ní ṫéit
O'D. 994. a náirem doiḃ feir gleiṫ na mes[na ith in tire].'

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[1] *Of his 'eric'-fine.*—That is, the 'eric'-fine of the man who has been slain in avenging the man of the 'deirbhfine'-division.

this was an adopted son of a 'geilfine'-division, or of a 'deirbhfine'-division, or though he be the adopted son of an 'ainfine'-division, *it is the rule* that there are honor-price damages due to every man of the family for the killing of him, if they were all present at (*consenting to*) the adopting of him.

And if 'eric'-fine is demanded from him, he calls upon his family to pay 'eric'-fine to him, &c.

And if, that is, 'os' for 'ocus,' i.e. if his 'eric'-fine is demanded of him, of the person who has taken the vengeance for the man of the 'deirbhfine'-division. He calls upon, i.e. he calls upon his own family to pay him truly.

In avenging a man of the 'deirbhfine'-division, in case only he himself offer *to pay* the full *penalty* out, and he has given notice to his family to pay him, what is due is to receive it from him, and he is safe afterwards.

If he has absconded afterwards, and it (*payment*) has not been accepted from him, and the family have paid his share after him; when he submits[a] to law, he pays compensation for his share, without produce,[2] or growth, or increase. [a] Ir. *Comes*

If he himself has offered *to pay* the full *amount* out, and has not given notice to his family to repay him, and has absconded, and his family pay his share after him, when he submits[a] to law he pays compensation for his share, with produce, and growth, and increase; and he pays the full honor-price of the best creditor of the family (*the best man among those who paid for him?*); and they divide it between them equally, or unequally. And this is honor-price without having absconded; and this is the second honor-price in the 'corus fine'-law where there is no evasion. Or, indeed, *according to others*, it was evasion from the best creditor of the family that occurred in the case; and this one honor-price is to be paid him, and he alone *is* to take it; and there shall be the double besides, though he brought it forward; and there shall be honor-price for every man of the family from which he has absconded.

What is the difference between these, and where it is *said*, "The limit of *the duty of* the family which pays his (*a kinsman's*) trespasses, until they are paid back every 'sed' which they have paid, together with its profit, the grazing of the grass, nor the mast, nor the corn of the land do not go into account against[b] them." [b] Ir. *For.*

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[2] *Produce.* 'Loꞅ,' means produce in the way of calves, butter, &c., 'aꞅ,' growth of the body of an animal in size, flesh, &c.; 'moꞃbaıꞃꞇ,' improvement in general.

OF EVERY CRIME.

Cid fodera foimeilt in ferainn do dul a naġaiġ na eineclainni annsin, ocus naċ teit ann seo?

Is e in faṫ fodera; do ċuaiḋ in duine ar in ferann ann sin, ocus nocha dechaiḋ ann seo; ocus ar eigin ro cuire in duine don ferann ann sin, ocus da deoin fein do ċuaiḋ de annsunn.

Ces.—Cis lir corannat cro ocus dibad? Nín—Cethrar; .i. athair ocus mac, brathair ocus fine.

Ces—cis lir, .i. cescaim no comaircim cia ler no cia lin itir a nurroinnter cro, coirrdire, ocus dibaḋ set ocus maoine is in tellach is neso. Athair, .i. air fein. Mac .i. a mac fein. Brathair, .i. in dearḃḃrathair. Fine, .i. in geilfine.

Mad ta mac ag in duine is marḃ ann, isi cumal aiṫgena do breiṫ do aonar, ma mairenn; ocus mana mairenn, is a breiṫ dia athair; mana mairenn sidein, is a ḃreiṫ dia derḃḃrathair; mana mairenn fein, is in tí is neso dia ḃreiṫ. Is aṁlaiḋ comroinntir in coirrdire; trí cumala dire do mac ocus do athair. Tait tri cumala dire ann as a haiṫle; cumal dire diḃ do derḃḃrathair, do taoiḃ. Atait da cumal dire ann as a aithlesiḋe; cumal dire diḃsiḋe do mac ocus dathair. Ata aon cumal dire ann as a aiṫle sin. A roind fein ó ṫa in fer iaċtaraċ in geilfine co roige in fer úaċtaraċ, ocus ó ṫá in fer úaċtaraċ co ruige in fer iaċtaraċ, ⁊rl.

Gné eile. Cach cin co cintach ⁊rl.

.i. cein bes cintaċ ar áird i crích do grés, noco ndeaċ a criċ cona sétaiḃ, co ro leice eloḋ in feicheman toicheḋa, nocha dir inbléo[ga]in brathar, no inbleġóin ratha dagra, aċt toicheḋ air fein fo aigne a graiḋ.

Maḋ ro ċuáiḋ in cintac a crich cona setaiḃ, no ciḋ i crich ata, maḋ ro leicustar éloḋ in feicheman toicheda, aċt mad tait seoit ar aird aige i crich, is a roġa in feicheman toicheda ata in aṫgabail géḃus no in inbleġóin ratha aigesus.

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[1] *The lowest man.*—The original transcriber remarks here: do ġéḃair mórán sleċt aiġnesa air sin a córus fine mád bionn gnoiṫe agad ris, ocus mar roiḃ, cár bec sin—“You will find many kinds of argument upon this in the family laws (‘corus fine’), if you have need of them, and if not, is not this enough?”

What is the reason that the use of the land goes (*is set*) against the honor-price in that case, and that it does not in this?

Of every Crime.

The reason is; the person went upon the land in that case, and he did not go in this; and it was forcibly the person was put off the land in that case, and it was voluntarily he went off it in this.

Question.—How many are they who divide the chattels and 'dibadh'-property? Answer.—Four; father and son, brother and family.

Question.—How many, i.e. I question or I ask how many or what *is the* number between whom is fairly divided the chattels, body-fine, and the 'dibadh'-property, 'seds' and goods, in the nearest hearth? A father, i.e. on himself. A son, i.e. his own son. A brother, i.e. the real brother. A family, i.e. the 'geilfine'-division.

If the man who is dead in this case has a son, he takes the 'cumhal' of compensation alone, if he be alive; and if he is not alive, his father is to take it; if he (*the father*) is not alive, his brother is to take it; if he (*the brother*) is not alive, it is the nearest person to him that takes it. It is thus the body-fine is divided: three 'cumhals' of 'dire'-fine *go* to *the* son and to *the* father. There are three 'cumhals' of 'dire'-fine remaining after that; a 'cumhal' of 'dire'-fine of them *goes* to a brother, collaterally. There are two cumhals of 'dire'-fine still after this; a 'cumhal' of 'dire'-fine of these *goes* to son and to father. There is one 'cumhal' of 'dire'-fine there after that. That is to be divided from the lowest man of the 'geilfine'-division until it reaches the uppermost man; and from the uppermost man until it reaches the lowest man, &c.

Another version.—Every crime to the criminal, &c.

That is, as long as a criminal is openly in the territory always, and has not gone out of the territory with his 'seds,' until he absconds from the suing creditor, it is not proper to sue a kinsman-brother, or a kinsman-surety, but to sue himself according to his grade.

If the criminal has gone out of the territory with his 'seds,' or though it is in the territory he is, if he has absconded from the suing creditor, but if he has 'seds' openly in the territory, the suing creditor has the choice whether it is a distraint he shall make, or whether it is the kinsman-surety he shall sue.

Of every Crime.

No dono, co na beṫ a roga dó aċt aṫgabail do gabail, uair iseḋ a deir: o cintaċ co folaiḋ.

Mad ro cuaiḋ cintaċ a crich co na setaiḃ, no ciḋ a crich ata, maḋ ro leigustar éloḋ in feicheman toicheda, ocus ní huilit seoit aige isin crích, is a roga in feicheṁan toicheda ata, an inbleġoin brathar no in inbleġoin ratha aigesus. Ciḋ be diḃ agras, is leis a roga; aċt ma se a roġa inbleġoin brathar dagra, ica in uiletaide uile risin itir; ocus ma se a roġa inblegoin ratha dagra, nocha nicann aċt cert aiṫgin.

Cid fodera gach uair is é a roga inbleogain braṫar dagra co nictar in uiletaidi ris, ocus gaċ uair is e a roġa inblegoin ratha dagra, co na ictar ris aċt cert aiṫgin?

Is e in faṫ fodera; inbleġoin ratha nochar gaḃustar siḋe do laiṁ aċt íc no toḃach, coir cin co ica aċt cert aiṫgin ineche ris i ndeachaiḋ, no gor leigeḋ sen eloḋ. In tinbleġoin braṫar imurro, nochar gaḃustar siḋe do laim íc na toḃach, aċt amail na roiri ċuige, iar ceimennaiḃ; ocus cóir cia ro íca in uiletaiḋe uile; uair dubla cintaiġ iseḋ aithgin inblegoin.

Or, indeed, *according to others,* he has not his choice, but he shall make a distraint, for what it (*the law*) says is, "from a criminal with property."[1]

Of every Crime.

If a criminal has gone out of the territory with his 'seds,' or though he is in the territory, if he has absconded from the suing creditor, and he has not 'seds' in the territory, it is with the suing creditor the choice is whether it is the kinsman-brother or the kinsman-surety he shall sue. Whichever of them he sues, the choice is his; but if it be his choice to sue the kinsman-brother, he pays the whole amount to him; and if it be his choice to sue the kinsman-surety, he pays but proper compensation.

What is the reason that whenever it is his choice to sue the kinsman-brother, the whole amount is paid to him, and every time that he chooses to sue the kinsman-surety, proper compensation only is paid to him?

The reason is:—The kinsman-surety only took in hand to pay, or to recover, it is therefore proper that he pays but the proper compensation for what he guaranteed, until he himself absconds. The kinsman-brother, however, had not taken in hand to pay or recover, but as it has come to (*or upon*) him in turn;[a] and it is proper that he should pay the complete whole; for double the criminal's *debt* is the compensation of the kinsman.

[a] Ir. *After steps.*

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[1] *With property.*—The Irish may mean, also, "From a criminal to property."

téd an fearann a cintaib.

THE LAND IS FORFEITED FOR CRIMES.

TÉD AN FEARANN A CINTAIB.

THE LAND IS FORFEITED FOR CRIMES.

Atáim da raḃ go téd an fearann a cintaib deċbire ocus indeċbire cintai[ġ], ocus for a cin in inbleogain, mar a deir an cumasc dlithe so. Ocus a deirim na fuil do deiċbir itir cin deċbiri ocus indeċbiri aċt go fedaíd an fine gan an fearonn do tabairt a cinta indeċbiri, no go curtar in cintaċ fein unnta ar túr; ocus nac tualaing iat a cur a cinta deċbiri no go curṫar an ferann ar tus inn, mar a deir; a cinta deċbiri marbtha, a scuiṫhí inn ar túr, ocus a annscuithi na deġa, ocus é ḃuḃein na deġa feig; ocus ma ta umarcraair, is a dul ar cuiger na geilfine.

O'D. 549.

Ocus; Saoraḃ nime [ceṫra] fri hinbleogan .i. ín cintaċ, a nemnéime ria na neime, a neime ria na feronn, a feronn ria na braiġid, a braiġ sa deoiġ.

An tinbleogan umorro, a nemnime ria na feronn, a feronn ria na nime, a nime ria na braiġid, a braġ[aiġ] sa deoiġ.
A neirríc foġla sin, no a briachaib cuir no connarṫa.

Ocus ni gaibter in cintach a cinaiḃ an inbleoġain cein ḃes tir ac in cintaċ; gaiber imorra, ina cintaib fein no a cintaiḃ a tigearna, iar nembeiṫ ceṫra noċo.
Ocus mar á deir; fithal fir gaoṫ mac aoengusa mic muireḋaiġ mic Reṫ asbert an breṫ so iar ċoll sula ċormaic, curab inn do rochaír deiscert mbreġ a ndilsi do cormac ocus dia sil.

Ocus mar adeir; Nis deilb ín dia truaille naċat sainnriud sasaiġṫe; fogail fri dia ndilġedaċ; manab tire

THE LAND IS FORFEITED FOR CRIMES.

THE LAND IS FORFEITED FOR CRIMES.

I AM saying that the land goes for crimes of necessity,[1] and for unnecessary crimes;[2] and also for the crimes of the kinsman, as this medley of laws states. And I say that there is no difference between a crime of necessity and non-necessity, but that the tribe need not give the land for crimes of non-necessity, until the criminal himself is given for them first; and that they cannot give him up for crimes of necessity until the land is given for them first, as it (*the law*) says: "*For* his necessary crimes of killing, his movables *shall go* first, and his immovables afterwards, and himself after that; and if there be more after that to be paid,[a] it shall go upon the five persons of the 'geilfine'-division."

[a] Ir. *On Him.*

And "the 'neimhe'-cattle of the kinsman are exempt *from seizure*." That is; *as to* the criminal, his non-'neimhe'-cattle *go* before his 'neimhe'-cattle, his 'neimhe'-cattle before his land, and his land before his neck, his neck last.

But *as to* the kinsman, his non-'neimhe'-cattle *go* before his land, his land before his 'neimhe'-cattle, his 'neimhe'-cattle before his neck, his neck last.

This is in *cases of* 'eric'-fine for trespass, or in debts of bargain or contract.

And the culprit is not taken for the liability of the kinsman as long as the culprit has land; he is taken, however, for his own crimes, or the crimes of his lord, when he has not cattle.

And as it (*the law*) says: "Fithal, the truly wise, son of Aenghus, son of Muiredhach, son of Reth, pronounced this judgment after the destroying of Cormac's eye, that for it was forfeited the south of Bregia, to Cormac and his race."[3]

And as it says: "God has not formed corruption nor any particular species of violation, the merciful God deems *such*

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[1] *Crimes of necessity.*—Such as killing a man in self-defence.

[2] *Unnecessary crimes.*—Such as killing a man to rob him.

[3] *To Cormac and his race.*—*Vide* note, p. 267.

THE LAND IS FORFEITED FOR CRIMES.

turgabar, nir ice ciḋ firmeḋaċ .i. mana gabtar tir is in eiric, nis turgeb na cintaig ciḋ firmeḋaṁ sechus forro, oir ni bera gae.

Fosaiḋter tir naoengusa .i. fosaiġter aongus cona ṫir a ndaoraigillneċt; no fasaiġter aongus uma tir, rl.

Forruair sar for soċaiġi .i. aongus ocus a braiṫri.

Eoċraib aithre aiṫiġi, olc aiṫle do sochaide .i. daongus.

Suṫain saoṫ ran riġai nim, a torċair leṫ mbreġ muiġe .i. a leṫ a ndaoraicillneċt, ocus a leṫ a saoraicillneċt.

No for ní sen aḋum adbaṫadar mar ḋuilé, .i. adbaṫadar tresin niumarbus uile ṫorad parriṫais ar adam, adbaṫadar ar aongus a ṫire.

Ocus mar a deir. Confogla cinta cia iar negaib; ni seġaid noisi dibaḋ fo iaṫa a norba .i. ni eḋ fastaiġter do reir nofesa dliged dibaiḋ na cinaḋ sin a ndul forsna horbaib fil is na tíre.

Ocus, cia baḋad cenna, ni baḋed mbruiġ .i. cia marb in comarba, mairid na tíre.

Ocus, ar confiacha la somaine suiġter .i. is caoin suiġter feiċ for in ti beris airille an mairb.

Ocus: ar id ilmaoine moiġter comarbaib .i. na maoine ilarḋa fasaid as in tir do beirid airmiḋniugad for comarbaib na cintaċ.

Ocus mar a deir; Log don lebar so aicill ar aice temair, ocus aimsir do aimsir coirpri lifeċair, ocus persa ḋo cormac, ocus tugaid a ḋenma caochaḋ cormaic dengos gaebuaḋbtaċ.

Ocus. Feċ focal air sin.

things atrocious;[a] unless land is given, no umpire can heal them,' i.e. unless land is obtained as the 'eric'-fine, the crimes cannot be taken away, though it be a righteous judge who estimates them, for he would pronounce no falsehood.

THE LAND IS FORFEITED FOR CRIMES.

[a] Ir. *They are a trespass with.*

"The land of Aengus is placed," i.e. Aengus with his land is placed in 'daor'-tenancy; or Aengus is stripped of his land, &c.

"He brought contempt on many," i.e. Aengus and his brethren.

"With the point[1] of the sharp lance he aimed at him, evil was it afterwards to many," i.e. to Aengus *and his brethren.*

"Perpetual the thing! to maim a noble king, for which half the plain of Bregia was forfeited," i.e. one-half in 'daor'-tenancy, and the other in 'saor'-tenancy.

"For what old Adam did, great things were lost," i.e. *as* by the transgression all the fruits of Paradise were forfeited by Adam, *so* his lands were forfeited by Aengus.

And as it says: "Liabilities are distributed even after death; the new laws do not settle a 'dibhadh'-land in a territory, without dividing it in the small holdings," i.e. 'dibhadh'-lands are not settled according to the new knowledge without their going upon the *small* holdings which are in the territory.

And: "Though heads die, lands die not," i.e. though the 'coarbs' are dead, the lands live.

And: "For debts are proportioned to the profits," i.e. the debts are fairly fixed upon the person who gets the property of the deceased person.

And: "For it is various riches that magnify the 'coarbs,'" i.e. the various kinds of wealth which grow out of the earth give dignity to the 'coarbs' of the debtors.

And as it says: "The place of this book is Aicill, near to Teamhair, and its time is the time of Coirpri Lifechair, and its person (*author*) Cormac, and the cause of composing it *was* the blinding of Cormac by Aenghus Gaebuadhbtach."

And: "see a word (*judgment*) on that."

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[1] *With the point.*—This and other paragraphs of the present fragment refer to the blinding of King Cormac Mac Art by Aenghus of the poisoned spear. *See* Ancient Laws of Ireland, vol. 3, p. 83.

THE LAND IS FORFEITED FOR CRIMES.

Ocus; Conbad cinaḋ gaċ breṫ.

Ocus mar a deir; Gaċ cin indeṫbiri do gni duine itir marbaḋ ocus araill, isé faḋeisin inn, ocus inile; ocus ma tarrastar fair, is íc dia mac go ro ṫocaiter innile ocus a tir ind. [Ocus iarr tuille air sin.]

Ocus mar a deir; Ma dibaḋ deṫbiri, deṫbir cia gelltar, .i. gelltar a ferond ina cintaib deṫbiri.

C. 1601. Luiġi s[ealb] s[eat]u .i. Luiġter a feronn tar a cenn. Sruiṫi daon dibad .i. ferr fer a orba.

Ocus; A cinta deṫbiri marbṫa, a scuiċe inn ar tus, ocus annscuiċe ana deġa, ocus é buḋein na deġa siḋeig; ocus ma ta imarcra ann, is a dul ar cuiger na geilfine 7rl. sin.

Tuiniḋ inndligṫeċ, so sis, mar a deir: bera aidbriuḋ taiḋbi cor, asberra friut; cor tobaiġ, cor toċlaiġ, d[ithli] cor.

Ocus; An gaċ teċnais do feḋat micuir (.i. cor tobaiġ no eigin) nach cora i niḋnastar mainib .i. noċa coir iḋnacal maíne inn.

Ocus; ni hetarscara sealb saruġa, na sena senmeirliġ, C. 2470. na fuireċ for eigín, na foxal tr[enliġi nirt], na cor go forumal.

Ocus; anbal gaċ aon ar tuiniḋ tarrtaċtain .i. is anfial do gaċ aon tarraiġter ina ṫuiniḋ go hinndligṫeċ.

Ocus; Gell nuaṫbais; ní diles ni do beran ar uaṫbas.

Ocus; Ni tabair ré na tuiníḋ fri cura na reimdilsi, cia focerdat taḋad ilar cor fair eturra imaniter, is do taitiḃ do renar.

THE LAND IS FORFEITED FOR CRIMES.

And; "Every judgment[1] shares the crime equally."

And where it says; "For every crime of non-necessity which a man commits either by killing or otherwise, he himself *shall go* for it, and his cattle; and if he is not caught (*shall be given up*), it shall be paid by his son until his cattle and his land are spent respecting it." And seek more on that subject[2].

And where it says: "If it be a necessary 'dibadh property, it is lawful though it is pledged, i.e. his land is pledged for his crimes of necessity.

"Property and 'seds' go," i.e. his land is forfeited for it.

He is nobler than any 'dibadh,' i.e. "a man is better than land."

And: "For his necessary crimes of manslaughter,[a] his movables *shall go* for it first, and his immovable property afterwards, and himself after that; and if there be excess (*more to pay*), it shall go upon the five persons of the 'geilfine'-division, &c.

[a] Ir. *Killing.*

This is unlawful possession down here, as it says: "A suit will set aside an unfair contract, I say unto thee;" *such as* a 'force'-contract, a 'claim'-contract, a 'forfeit'-contract.

And: "whenever during violence unfair contracts, i.e. of force or violence, are made, it is not proper to give goods for them," i.e. it is not proper to deliver goods in the case.

And: "Violence, or the denial of an old thief, or the withholding by compulsion, or seizure by overwhelming strength, or forced contract, do not separate possession."

And: "It is monstrous for any one to be caught in *unjust* possession," i.e. it is a shameful thing for anyone to be caught in possession unlawfully.

And: "A pledge of terror;" nothing is lawful which is given out of terror.

And: "Neither time nor possession is equivalent to any contract or pre-right, though thieves may make many contracts as to it between themselves, it is the thieves that shall pay.

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[1] *Judgment.* O'D. 726 and C. 1595, for 'bꞃeꞇ,' judgment, read 'bꞃaꞇaiꞃ,' (brother.)

[2] *And seek more on that subject.* This is a remark by the scribe.

THE LAND IS FORFEITED FOR CRIMES.

O'D. 2070.

Ocus; atait seċt tabarta i tuaiṫ ata hindilsi la feine, cia ronastaiġter for mac ocus raiṫ; cor ar eigin, gell mna dinċaib, [cor tobaiġ,] creic seoit gaite, set fonuaslaigi nemi, coibche mna naḋ urnaiḋat a foltaib teċta, .i. ni dilsid na neċi sin o fer bonaḋ an tan daṁar dliged umpu.

Ocus; ni haclaiḋ selb tuiniḋ lia[n], no lobra, no anfis, no anfaitċes. 7rl sin.

Ocus; aisgí cona fiach gaide an selbuġ inndliġṫeċ, mar a deirid na dlithe so:

An tí do beir na teċta selba is é do ren go fiachaib taiḋe .i. an tí do beir ni do neoċ ocus noċ o na seilb buḋein teċtas aċt ó seilb ġaide an gadaiḋi, ise isren gach fiacha taiḋe .i. ise icus gaċ fiaċa gaide .i. in gadaidi no in fir meḋongaide lan indligṫeċ.

Ocus; mas ar eigin no mas a ngaid rugad a seoit o neċ, masa marbdile iat, lan fiachaib gaidi inntib fo cedoir, amail do beṫdóis for trebairi aċtrann. Ocus masa beodile iat, lan fiaċ gaide inntib fo cedoir, ocus as, ocus los, ocus gert do riċ riu focedoir, ocus aiṫgin laċda ocus gnimra dairsag uaḋaiḃ, ut dixit leigem; quí ailiter in obilé inċrat nisi i per ostium fur est .i. in tí tí conuir aile isin lias caeraċ aċt tar a dorus is amail gadaid é. Ocús is amlaid sin ata ín tí tí a seilḃ gan dliged is amail creċaire.

Ocus; gada ocus aircealla, ocus donnfollus, ocus fuataċ gin tairisim, dire gaide leo uile.

Ocus; ní forfoxla taiḋi, no cnéid, no foġuirre, no forcumal neígne, isrenar cona fuillem, cona diablad

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[1] *Imbeciles.* The word so translated is written in the MS. 'Liā,' which O'Curry lengthened as in the text, but in the margin of his transcript he wrote ċ with a note of interrogation, showing he was in doubt as to the word. C. 2470, reads 'Liuin.'

[2] *Ut dixit Lex.*, C. 341, quotes this passage, which is taken from the Gospel of St. John, c. 10, v. i., &c., and also another which is evidently from the Lex Civilis of

THE LAND IS FORFEITED FOR CRIMES.

And: "There are seven gifts in a territory which are *considered* unlawful by the Feini, though they are confirmed by a son and a surety; a forced engagement, the pledge of a woman to *save* her honor, a pledge of distress, the purchase of a stolen 'sed,' a 'sed' which a 'neimhidh'-person redeems, the nuptial present of a woman who does not perform her lawful duties, i.e these things are not forfeited by the true owner, when law is submitted to respecting them."

And: "Possession of land shall not be sued upon imbeciles,[1] or lepers, or ignorant or unwary persons."

And; "hence fines of theft are imposed for unlawful possession," as these laws state:—

"He who gives possession of what he does not own, it is he that shall pay, with fines for theft," i.e. he who gives a thing to another, and that he has it not of his own property but from the stolen possession of the thief, it is he that shall pay every fine of theft, i.e. it is he that shall pay all the fines for the theft, i.e. *which shall be imposed upon* the thief or the fully unlawful middle theft man.

And: "If it be by force or if it be by theft his 'seds' were carried off from a person, if they are dead chattels, full fine for theft *shall be paid* for them at once, as if they were upon the security of strangers. And if they are live chattels, full fine for theft *shall be paid* for them at once, and the growth, increase, and milk shall run with them at once, and compensation of the milk and the work shall be made by him (*the thief*) ut dixit lex[2]; 'Qui ailiter in obile intrat nisi per ostium fur est, i.e. he who enters the sheepfold by any other way except through the door, is as a thief.' And it is thus that every one who goes into possession without legal right is as a plunderer."

And: "Thefts, and plunders, and robberies, and abductions without desisting,—all incur the 'dire'-fine of theft."

And, "That which is taken away in theft, or openly, or by violence of force, shall be paid for with increase and

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Justinian, and which was left out by the transcriber of Egerton, 88. It runs thus:

"Non potest raptor sive invasor rem restituere nisi restituat ejus poenam," i.e. it is not enough for the robber or the invader, to restore the thing itself unless he restores the penalty for it.

THE LAND IS FORFEITED FOR CRIMES. [naithgena], ma mairbdile. Maḋ beodile .i. maḋ co los ocus inforbairt.

Ocus; A mo Naire nuallgnaid, diamba breṫem, ni eturscaraḋ innaḋ fri hinnam. O'D. 1122.

Ocus; ní a ḃuil fola neime; ni diguiġter tria aimsera; ol innuġ sceo bliċt buan, mara mardire dé diabal .i. mor raiter dire ḋiabalta inn iar leigsin eloiṫi; no, is na seotaib diabalta, ce toirsit gin go toirsit; no, is na beodile, dia toirsit aríḃísi.

Ocus; Na fortéd eigin na ilarnaé .i. naċ anfír saiḃann sochaiḋe uada é tre eigin ainḃfir.

C. 2211. Ocus; Do suí criḃ comraċ omna [soċraiti] .i. umpuiġter o neoch go hobann a ní comairberrntar uaḋa tre eigin anfír.

Oċoch soċraide .i. nert droċgotha sochaiḋe tug do reiṁ.

Suiḃter nanbfirinne .i. samiter do neoċ a ni berar uaḋa tre anbfirinne.

THE LAND IS FORFEITED FOR CRIMES.

with double compensation, if it be *a case of* dead chattels. If it be live chattels, i.e., with growth and increase.

And; O, my comely faced Naire, if thou be a Brehon, thou shalt not separate the increase from the cattle.

And; 'Neimhe'-property does not perish; it is not lessened by time, for the great increase and constant milk, double great 'dire'-fine shall be paid, i.e., it is said that double great 'dire'-fine shall be paid for it after absconding; or for the 'seds' of double, whether they are forthcoming or not; or for the living chattels, if they are forthcoming again.

And; "Let not violence nor the many prevail," i.e., whatever unrighteousness the many are guilty of forcing from him through unjust violence.

And; "Quickly is it set aside which was acquired by the pressure of the shouting multitude,"[1] i.e., Quickly is that thing taken from a person, which he wrested from another by unjust violence.

"The shouting of the multitude," *i.e.*, it was the force of the evil voice of the multitude that gave it to him before.

"The injustice is righted," i.e., that thing which has been taken away from one by unrighteousness, shall be righted for him.

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[1] *The shouting multitude.* For 'comꞃaꞇ' of the text, the reading in C. 2211 ombꞃuꞇh.

Fodla Tire.

DIVISIONS OF LAND.

Fodla tire.

Divisions of Land.

Cislír fodla tire? Nin—dí fodail.

Cadeat? Eaṫam ocus aineatham.

Cislir [fodail] for eaṫam? A teora .i. eaṫam re a mbi eaṫam; ocus eatham tulcach; ocus eaṫam friċnama.

Eatham re a mbi eaṫamaib cetamus: Tir forad a mbí maiṫ caċ maiṫ, itir iṫ, ocus blicht, ocus lín, ocus glainsine, ocus miil, ocus roid, ocus cumrad; naċ eicin do friċnam tuair na slige; na biat glama ann. Leicter echall ina rínd, na toiglean dris, na droigean, na glesligi .i. lus lenas a nedach, na homan a moing naċa lai. Ase innraic andsin.

Etham taulchach imorro; bid uisci i suidiugad, ocus is fuinnside caċla maigin and. Ise maiṫ do caċ cloinn ocus da caċ torad olcena.

Etham frichnaṁa; tir inbela som i mbi maiṫ caċ clann.

Cid lir fodla antrenni? A tri. Cadeet? Nin—Antrenn ocus anmín, ocus andomain.

Anmin cotat tír raiṫen mag, ocus og mag. Antrenn .i. sliab fraich ocus aiteann asuiduig. Andomain; duibtir ocus moin son.

Cesc—Cotoimsib tír cumaile? A grainni: tri grainne i nordlaċ innraic; se ordlaige i ndorn; ocus da dorn a traigid; se traigṫi i ndeisceim; se deisceimeanda a ninntrit; se inntrit a lait; se laiti a forrais; se forrais i nairceand. Tír cumaile da forrais .x. dia fot.

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[1] '*Glaisin*'-dye-plant. This was some kind of herb, or plant or shrub, which was used for giving wool, or flax yarn, a preparatory bluish, or greenish color probably 'woad.' *Vide* Ancient Laws of Ireland, vol. 2, pp. 370 *n.* 371, 375.

[2] '*Roid*'-dye-plant. Some sort of plant used for dyeing crimson red. *Vide* Ancient Laws of Ireland, vol. 2, pp. 420, 421.

[3] *In a hand.* In H. 3, 18 (C. 252), the Irish word is 'ordlac,' an inch, which obviously a mistake. In E. 3, 5 (O.D. 1462), the word is 'bas,' the palm of the hand

DIVISIONS OF LAND.

How many are the divisions (*in quality*) of land? Answer, two divisions. **Divisions of Land.**

Which are they? Arable land, and non-arable land.

How many divisions are there of arable land? Three, i.e. arable land which takes precedence of arable lands; and hilly arable land; and labour-requiring arable land.

As to arable land which precedes arable lands firstly: An inhabited land in which everything good is good; both corn, and milk, and flax, and 'glaisin'-dye-plant[1] and honey, and 'roid'-dye-plant,[2] and sweet herbs; which does not require the application of manure or shells; in which there are no sticking plants. If a bridle-horse be let into its top grass, no briar, no blackthorn, nor burdock, i.e. a plant that sticks in clothes, nor 'oman-plant' will stick in its mane or its tail. It is in its proper condition then.

As to hilly arable land, however: There is water upon this usually, and there are ash trees in every second field of it. And it is good for every plant, and for every produce in general.

As to labour-requiring arable land; this is axe-land, in which every plant grows freely.[a] Ir. *Is good.*

How many divisions are there of weak land? Three. What are they? Answer—Weak, and coarse, and deep.

Coarse, comprises land of fern fields, and of good fields. Weak, i.e. a heathy mountain and furze upon that. Deep: This is a black land and bog.

Question—How is a 'tir-cumaile' measured? By grains: three grains in a proper inch; six inches in a hand;[3] and two hands in a foot; six feet in a pace; six paces in an 'inntrit'-measure; six 'inntrits' in a 'lait'-measure; six 'laits' in a 'forrach'-measure; six 'forrach'-measures is its breadth. A 'tir-cumaile' is twelve 'forrach'-measures in length.[4]

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[4] *In length.* The measures here are somewhat different from those in O.D. 1492, here it is said that "12 feet are a 'fertach'-measure, and 12 'fertach'-measures forrach'-measure.

DIVISIONS OF LAND.

Na se fodla tiri so tra arrubartmar, cosmaili a tomus, ecosmaili a loigi. Etam re mbi etammaib, cumala .iiii. bo fichit mblicht a log. Etam taulcaċ, cumala fichit mbo mblicht [a log]. Etam sriċnama, cumala se mbo ndec mbliċt a log. Ainmin, cumala da bo ndec seisc naire. Antrend, cumala da bo ndec seisc nairi. Andomain, cumal oċt mbo seisc naire.

Cislir do formaig ocus loigi fors na tiraib seo?

Nin—A oendec. Caitiat saide? Rund, airgetlaċ, lathrach mailind, slige, rot, romuír, [s]ruṫ, roillbe, inber, gelestar, boṫar.

Cia met do formaig ocus loígi caċ ae?

Ma rud, cetamus, beas ime díclud, no coraid, mad ac innraic, do formaid .x. seoit; mad ac [eis]innraic, do formaig .u. seot.

Mad argetlaċ do méin uma no iarainn, do formaig. u. seotu.

Mad laṫraċ senmuilaind do formaig. u. seotu.

Mad slígi adcumaid o thír co flaiṫ, no mainistir, do formaig .iii. bu.

Ma romuír conta cínaid cairac torach, a tír cumaile do formaig.

Mad sruṫ a toib no aircind combi dirand lais, is cumal a do formaig.

Mad roilbe dono adcuma, is cuma[l] do formaig.

Ma inber do necma, it .u. seotu do formaig.

Mad gelestar nemtraig, it leṫ .u. seotu.

Mad rot nairceand rosaid rud, no romuir, no roillbe, is bo do formaig.

Mad bothur slige do ascnam geilestair, no tíre, no tir bís itercein, no slige maire, is colpach do formaig.

Ite andso compersta mbroga fo a luibid[1] ocus a scoṫa buide; rath ocus og rath,

Finit do tir cumaile.

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[1] *Its herbs.* Over the 'd' of the word 'luibid,' there is written in the MS. 'b, intimating, probably, that the reading should be 'luibib,' the correct form of the dative and ablative plural.

Divisions of Land.

As to these six divisions of land now, which we have mentioned, their measurement is alike, their price is unlike. Arable land which precedes arable lands, 'cumals' of twenty-four milch cows is its price, *i.e. of the above measure.* Hilly arable land, 'cumals' of twenty milch cows is its price. Labour-requiring arable land, 'cumals' of sixteen milch cows is its price. Coarse land, 'cumals' of twelve dry cows *are paid* for it. Weak land, 'cumals' of twelve (? *ten*) dry cows *are paid* for it. Deep land, a 'cumal' of eight dry cows *are paid* for it.

How many things add to the price of this land?

Answer—eleven. Which are they? A wood, a mine, the site of a mill, a highway, a road, a great sea, a river, a mountain, a river falling into the sea, a cooling pond *for cattle,* a road.

How much does each *of these* augment the value?

If it be a wood, firstly, around which there are two dykes, or a stone wall, it adds ten 'seds,' if in the possession of a worthy person; if in the possession of an unworthy person, it adds *but* five 'seds.'

If a mine, of copper, or of iron, it adds five 'seds.'

If the site of an old mill, it adds five 'seds.'

If it be a way which leads from a land to a chief, or to a monastery, it adds three cows.

If it be a great sea which has productive rocks (i.e. *producing 'duilesg'*), 'it is a tir-cumaile' it adds . . .

If it be a river at its side or head, which has a waste place, it is a 'cumal' it adds.

If it be a mountain now in the same condition, it is a 'cumal' it adds.

If it be the mouth of a river that happens *to be there,* it is five 'seds' it adds.

If it be a cooling pond which does not become dry, it is half of five 'seds' *it adds.*

If it be a head-road which leads to a wood, or a great sea, or a mountain, it is a cow it adds.

If it be a road-way that leads to a pond, or land, or to a land that is far away, or to a highway, it is a 'colpach'-heifer it adds.

Such then, are the productions of land, with its herbs[1] and its yellow flowers . . . 'rath' and 'ograth.'[2]

'Finit' of 'tir-cumaile.'

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[1] '*Rath*' *and* '*ograth.*' The MS. seems defective here.

de fodlaib cineoil tuaiṫi.

OF THE DIVISIONS OF THE TRIBE OF A TERRITORY.

de foḃlaib cineoil tuaiṫi.

Of the Divisions of the Tribe of a Territory.

Ni tualaing brethemnachta for fine na fuidri nad fiastar a netarscartha, ocus a ndire, ocus a cain, ocus allog a nenech.

Ni tualaing .i. noco cuimgeċ breiṫemnacta do reir ind ḟeneċais for fine na fodaer. Nad fiastar .i. re re trir, no eatarscarad na fine ocus na fuidre fri a flaith. A ndire .i. cia beres dire a ndula. A cain .i. trian a smacta cana. Allog a nenech .i. loġ eineaċ gaċa fuiḋre aċt doerfuiḋir, no loġ eneċ as a tochus aċt trian; fear son cen selb cen tothchus 7 rl.

Cis lir fodlai fine la feine?

Ite fodlai fine cacha flatha; a fuidri, a ciniud, a gabail fodagniat, conid ainm doib uile flaithe fine.

Cis lir .i. cia lear no cia lin do na fínib ḟodeiligtir and. Ite .i. itiat so na fine [fo]deiligtir and. A fuidri .i. saerraid re re trir, .i. ín daerbotaċ as in ċeṫramad fir; in sencleiṫi isin .u.eḋ fir.

Cair—Cis lir fini tuaithe, ocus cid inetarscarat? Ite fine cacha tuaithe, geilfine, deirbfine, iarfine, indfine, deirgfine, duibfine, finetaccuir, glasfine, ingen ar meraib. Duufine, is ann diba finntedaib.

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[1] *Three.*—These three classes of persons are described in O'D., 999.

[2] *Free.*—See O'D., 1346 (E. 3, 5, p. 20, col. 2).

[3] *A 'sencleithe-person.*—On the term 'Sencleithe,' Professor O'Curry remarks, 'Fuidhir'-tenants who were in the occupation of land during the reigns of four

OF THE DIVISIONS OF THE TRIBE OF A TERRITORY.

Of the Divisions of the Tribe of a Territory.

He cannot exercise judicature for the tribe of the 'fuidhir'-tenants unless he knows their separations, and 'dire'-fine, and their 'cain'-law, and their honor-price.

He cannot, i.e. he cannot exercise brehonship, according to the 'Fenechus'-law, upon the tribe of the inferior bondsmen ('fo-daer'). **Unless he knows *their separation***, i.e. during the time of three, or the separation of the family and members of his tribe, and the 'fuidhir'-tenants from the chief. **'Dire'-fine**, i.e. who gets 'dire'-fine for *injuries done to* their cattle. **'Cain'-law**, i.e. the third of their 'smacht'-fines in 'Cain'-law. **Their honor-price**, i.e. the honor-price of every 'fuidhir'-tenant except the 'daer-fuidher'-tenant, or honor-price in proportion to their property except three;[1] this is a man without land or property, &c.

How many are the divisions of a tribe (*or family*) with the Feini?

These are the divisions of the tribe of every chief; his 'fuidhir'-tenants, his kinsfolk, his 'gabhail fodagniat'-dependants, all of whom go by the name of 'flaithe-fine'-persons.

How many, i.e. how many or what number is there of the tribes who are divided. **These are**, i.e. these are the tribes who are divided therein (*in the 'Fenechus'-law*). **His 'fuidhir'-tenants**, i.e. they become free[a] during the time of three persons, the fourth man *in succession* is called a 'daer-bothach'-person; the fifth man a 'sencleithe'-person.[a]

Question. How many are the family divisions of a territory, and how do they separate?

These are the family divisions of each territory:—'geilfine,' 'deirbhfine,' 'iarfine,' 'innfine,' 'deirghfine,' 'duibhfine,' *to which are added* 'finetacuir,' 'glasfine,' 'ingen ar meraibh.' These are of the tribe, it is here the tribe ends.

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kings, or the chieftaincy of four chiefs, were so called; afterwards their descendants could never become free.—*Vide* C. 1212, 2184.

OF THE DIVISIONS OF THE TRIBE OF A TERRITORY.

Gelfine co cuicer; isiaide gaibes dibad cach cind comacuis dineoch diba uaid.

Derbfine co nonbor; ni daba haaide cobraind fo lin cenn comocuis.

Iarfine co tri feraib dec; ni beiride acht cethramthain di chin na somane, di orbu na saetur.

Indfine co .uii. firu dec; conranna cadeissin finteda dineoch diba uaide, amal bes choir. Duthaig duine otha sen, iss ann scarait finnthea.

Derggfine issede cruess; ni diba huaide; ni cobrannaide finntea, issech icaid cinnta comoccuis.

Dubfine issede dombeir fir noilleg na fintar imbi fir fo anfir; ni cobranaide finnthea condatuice fir caire no crannchuir; is iarum conranna cethraimthain fri índfinde.

Finetaccuir issede domberat cuir bel a forram; ni cobrannaide dan finnteda acht ni i fuisedar cuir bel.

Glasfine mac mna ditfini beres do albanach; ni gaibsaide acht orba niad, no duthrachta dedlaid fri fine.

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[1] *As 'dibadh'-land.*—Land that devolves to them by the extinction of a kin family division.

Of the Divisions of the Tribe of a Territory.

The 'geilfine' *extends* to five persons; it is they that get the 'dibadh'-property of every kindred chief who leaves 'dibadh'-property.

The 'deirbhfine' *extends* to nine persons; their 'dibadh'-property is not divided according to the number of kindred heads.

The 'iarfine' *extends* to thirteen men; they get only the fourth part of fines, or of profits, of the ground, or of labour.

The 'innfine' *extends* to seventeen men; they divide among themselves, as is right, whatever part of the tribe lands is left as 'dibadh'-land.[1] From this forth it is *a case of* a community of people, it is then family relations cease.

The 'derggfine' is that which has shed blood; no 'dibadh'-property comes from them; they receive no share of[a] the tribe-lands, although they pay for the crimes of their kinsfolk.

[a] Ir. *They divide not*

The 'dubhfine' is that which tenders the test ot an ordeal whereby is known whether it be truth or falsehood *concerning it;* they receive no share of[a] the family land until they have tendered the proof of the cauldron,[2] or of the lot; it is after this they receive the fourth of the share of the 'innfine'-division.

The 'fine-taccuir' are they who give verbal contracts in adoption; they receive no share of[a] the tribe lands except what is acknowledged by verbal treaty.

The 'glasfine' is a son whom a woman of the family has borne for an 'Albanach'; he receives but the land of a champion, or of a 'duthracht'-person, that has separated from the family.

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[2] *The cauldron.*—A sort of ordeal; *vide* O'D., 1324–25 (E. 3–5, p. 16, cols. 1, 2)

[3] *An Albanach.*—A native of Alba, an ancient name for the modern Scotland.

'Of the Divisions of the Tribe of a Territory.

Ingen ar meraib; isuide dodnidnaig cluais do cluais do comceniuil; dedlaid fri fine, conrannaside finnteda on med addaimther isini.

Duthaig do fine ni cobrannaide eitir, iss ann diba finntedaib.

Finte fuidir co tarille fodail; fonenmuin moigethar mac fria athair, ocus ni ren in tathair ni sech macu, sech ua, sech iarmu, sech indue.

Cair .i. comairceim cia ler no cia lin dfinib bis isin tuait .i. o ṫa na secht finu dec amaċ. Deirgfine .i. indiḟini fingalaċ. Duibfine .i. ind ḟini taide. Finetaccuir .i. na meic soerma. Glasfine .i. gabair tar glas na fairge. Duufine .i. dutaiġ daeine. Diba finntedaib .i. conaċ ducas fine e aċt duċus daeine. Gelfine co cuicer .i. cuicer bis i ngeilḟine. Isiaide .i. iside gabas dibaḋ gaċ cind rocomoicsigeḋ di, no don chin dian ar comacsi in dibad. Dineoch .i. do neoċ diḋbas uaiti. Dibaḋ gelfine cobrannait na cetheora fine ro sis. Derbfine .i. co naṫgabail in cuicḟir na fini romaind .i. in ni diḋbas uaiti dan fini. Cobraind .i. comraintir a dibaḋ fa deig ro miad na cend ra comaicsigeḋ, do in ninnbaid is en fear don ḟini ro diḋba and; no ro miad ceand na teora fini, in ninbaid isi ind ḟini mic ro diḋba and. Iarfine .i. co naṫgabail in da ḟine romaind. Cethramthain .i. ar teora ceaṫramṫa na ceṫraiṁṫi dibaiḋ geilfine. Di chin .i. laime. Somane .i. innile. Di orbu .i. dḟearand. Saetur .i. da scuigṫib, no do ḟriṫgnam. Indfine .i. co naṫgabail na tri fini romaind. Conranna .i. urrandaid seis budein ini is duṫaig da ḟini inti ada eiblestar uaiti. Amal .i. amail dliġes. Des choir .i. o ṫa na .uii. finu deg

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[1] *The 'ingen ar meraib;'* Literally "the nail on the fingers."

[2] *A territory.*—According to Dr. O'Donovan, a 'Tuaith' is also called a 'cinnament' in the county Antrim.

[3] *Deirgfine.*—They were those who were guilty of the murder of a brother family-man, i.e. any one of the seventeen men of the four principal divisions.

[4] *Of a people.*—The seventeen men next in point of relationship by blood to the chief enjoyed peculiar privileges, but all outside these were considered the people, not the family, or tribe, or sept.

[5] '*Geilfine*,' i.e. white family. Dr. O'Donovan says:—These were the chief's immediate family, including himself, the seniors being always preferred to the juniors, as far as five persons, i.e. his uncles, his brothers, his sons. But *vide* Sir Henry Maine, Early History of Institutions, pp. 209-216.

OF THE DIVISIONS OF THE TRIBE OF A TERRITORY.

The 'ingen ar meraib';[1] it has passed from ear to ear that it (*this division*) is of the family; it separates from the family, but it obtains a share of the family land, inasmuch as it is acknowledged as of the family.

The land of the family is not at all divided; it is here the family (or tribe) ends.

The families of the 'fuidhir'-tenants are subject to manifold divisions. The son is enriched in the same ratio as the father, and the father does not sell anything to the prejudice of[a] his sons, grandsons, great-grandsons, or great-great-grandsons.

[a] Ir. *Beyond.*

Question, i.e. I ask how many or what number of families there are in a[a] territory,[2] i.e. from the seventeen men out. 'Deirg-fine'[3] (red family), i.e. the fratricidal family. 'Dubhfine' (black family), i.e. the uncertain family. 'Fine-taccuir,' i.e. the adopted sons. 'Glasfine' (green family), i.e. which is got over the azure surface of the sea. These are of the tribe, i.e. the community. The tribe ends, i.e. it is not the property of a family, but of a people.[4] The 'geil-fine'[5] to five persons, i.e. there are five persons in the 'geilfine'-division. They *get*, i.e. they receive the 'dibadh'-property of every chief *or* head of a family who is related to them, or the 'dibadh'-property of the chief to whom they are nearest of kin. Each *who gives*, i.e. who becomes extinct of them. The 'dibadh'-property of the 'geilfine' is divided among the four families down here.[6] The 'deirbfine' *to nine persons*, i.e. with the inclusion of the five persons of the family *division* before mentioned, i.e. the thing which devolves from them to the family. Is divided, i.e. the 'dibadh'-property is distributed according to the dignity of the heads who are related to him, when it is one man of the family that has left the 'dibadh'-property; or, according to the dignity of the heads of the three families, when it is the young man of the family that leaves 'dibadh'-property. The 'iarfine' (after-family) *to thirteen men*, i.e. with the inclusion of the two families before mentioned. The fourth part, i.e. three quarters of the quarter of the property which devolves from the 'geilfine'-division. Fines, i.e. *for crime* of the hand. Profits, i.e. of cattle.[7] Of the ground, i.e. of the land. The labour, i.e. of moveables, or of service. The innfine *to seventeen men*, i.e. with the inclusion of the three families before mentioned. Divide, i.e. they themselves divide what is due to the family of the person who died from among them. As *is right*, i.e. as the law directs. *As* is

[a] Ir. *The.*

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[6] *The four families down here.*—The gloss is interlinear and appears to be incorrect.

[7] *Of cattle.*—That is, the milk, butter, calves, hides, &c.

Of the Divisions of the Tribe of a Territory.

O'D. 736.

amaċ. Iss ann searait .i. co naċ fine duthaig e ċhein imaċ a
dutaig daeine; [no is ann searat cobrann feranna ocus cinaid; i
is ann dibes in carpdes; no is ann dibait na caetra fine.] Dergg
.i. in nine fingalaċ. Issede .i. isside fhagbas neaċ dona fine, i
noidbda and uaiti. Ni cobrannaide .i. nach comrannand fris duta
na fini. Issech .i. seichim no inosaigim, gu nicand ceirt in ti f
comaigiged do. Dubfine .i. ind fine taibe .i. fine conntabartach
Issede dombeir .i. isside da beir isind fini gu fir. Laigh da fara
Noilleg .i. in don fine iad no naċ ead. Ge da nicer ar naill, ni rai
orba cona tuga fir caire no crannchar. Mad la derbfine, is cethra
in orbo doib; mad comlin, is ceathrainne beos; mad uaite, is ceathrai
chota cach fir thall do cach fir annug. Fir caire .i. da fara
anund. Is iarum .i. is iar na fasrad urrandus cethrarach fos in
bis ar a ċind isand fini. Fine taccuir .i. na meic faesma. Isse
.i. is iadsaide faesmaigthir ar thrabairne go cirro belaib. A faesm
.i. no go comrandand fris dibad acht ini faesmaigther e .i. in ni gella
doo.

Atait ordaigthe imda fors na macaib faesma .i. mac faesm
do geilfine, ocus mac faesma do derbfine ocus mac faesma d
echtar fine. Mac faesma do geilfine, beiridside cuit isin fi
itir brud ocus fearann, manab tar bragait fine. In ma
faosam, imorro, do derbfine, manar tar bragait fine, beiridh ui
in fearann acht a ċuit insin do brud iar ndul anuinn don ge
Mana for feidmi fine, ocus ni farrug doib ar aide, is ann i
faosam caich fo miad. Seaċt cumala o rigaib, leṫ seaċ
cumala o gradaib flata, teora cumala o gaċ bancomarba, d
cumail gaċ ocaire, ocus gaċ boaire; ocus co tormaċ selb in
uile. Mana torma selb, ocus is mac faosma ar searc, ocus n
tar bragait fine, is .uii. mad gaċa rainne dib so uile .i. do n

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[1] *Of a people.*—All other persons inhabiting the territory are considered th
people, and have not the same privileges as the four classes consisting of seventee
men already mentioned.

[2] *The doubtful tribe.*—That is, of whose pedigree a doubt had arisen. D
O'Donovan here refers to the story of "Donall na gcroiceann ('of the skins'
O'Donovan;" also to that of "Teigue an eich bhain ('of the white horse,'
O'Donovan" who returned to Carbery under the name of 'Burke,' and proved hi
being an O'Donovan, and got a share of the land of his sept.

[3] *To retain them.*—Here the singular number is used by an error in the original

OF THE VARIOUS DIVISIONS OF THE TRIBE OF A TERRITORY

right, i.e. from the seventeen men out. It is then they separate, i.e. so as that it is not the territory of a family, but the territory of a people[1]; or it is here the subdivision of land and liability separates; or it is here the relationship becomes extinct; or it is here the four families become extinct. The 'derggfine' (red family), i.e. the fratricidal tribe. Is that *which has shed blood*, i.e. which has killed one of the family, so that their 'dibadh'-property is forfeited from them for it. They receive no share, i.e. these share not in the family inheritance. Although, i.e. *even though this is the case, still* I maintain and insist that they must pay for the crimes of the person who is related to them. 'Dubhfine' (black-family), i.e. the tribe of secrecy, i.e. the doubtful tribe.[2] Is that which tenders, it is this that offers to the family the test of an oath for its retention. *The test of* an ordeal, i.e. whether they are of the family or not. Though it should be allowed *that they are of the family* after an oath, *still* the lands are not divided until they give the proof of the cauldron or of the lot-casting. If the 'duibhfine' be more numerous *than the tribe they claim to be of*; the fourth part of the land is *given* to them; if they be of equal number, the fourth part is likewise theirs; if fewer, the fourth of *what is* the share of each man within *the tribe* is given to each man without. Proof of the cauldron, i.e. to retain them[3] within *the tribe*. It is after this, i.e. after being retained they share one-fourth with the person who is at the head of the family. The 'finetaccuir,' i.e. the adopted sons. Are they who, i.e. these are they who are acknowledged by the proper guaranty of oral contract. In adoption, i.e. they do not share in the 'dibadh'-property, but as much as is acknowledged, i.e. the thing which was promised to them.

There are many regulations respecting the adopted sons, i.e. an adopted son of the 'geilfine,' an adopted son of the 'deirbhfine,' and an adopted son of an extern tribe. The adopted son of the 'geilfine' gets a share among the tribe, both in house and land, unless *he has been adopted* against the will[a] of the tribe. But the adopted son of the 'deirbhfine' if *he has* not *been adopted* against the will[a] of the tribe, shares in all the land, but he has his share of the house *only* after having gone over *into the family* to be taken care of. Unless *adopted* without the consent of the tribe, who are in consequence insulted, it is then the adoption of each is according to his dignity. Seven 'cumhals' *are due* from kings, half seven 'cumhals' from those of chieftain grade, three 'cumhals' from every female 'comharba,' two 'cumhals' from every 'ogaire'-chief, and 'bo-aire'-chief; and all this to be augmented with increase of stock. If there be no increase of stock, and the adopted son has been adopted from affection, and not to the prejudice of[a] *one of* the tribe, it is the seventh of each of these divisions *that is given to the adopted*

[a] Ir. *Over the neck of*

The 'dubhfine' may consist of one man only, and when he is proved, by the tests of oath and ordeal, he gets one-fourth the property of a man of the tribe as to whose membership no question had arisen.

Of the various Divisions of the Tribe of a Territory.

seċt cumala, ocus do leṫ na .uii. cumala ocus do na teora cumala, ocus do na di cumala. Mad tar braġait imorro, neiċ dib itir, in mac faosma do ainfine, is iside gaibes in cis nincis. Ocus .uii. cumala a loġside do gres, manap tar braġait fine; mad tar braġait fine, ni beir cid loġ a saoṫair.

Glasfine .i. gabair tar glas na fairge .i. mac murcuirṫe .i. mac eissiḋe beres bean don ḟine dalbanaċ. Orba niad .i. fearand gormeic .i. meic seatar, log cumaile. Dedlaid .i. deligid ind ḟine ḋo. Ingen ar meraib .i. caċ ga raḋa is dan ḟini hi. Dodnidnaig .i. ar a fot uait ata, ocus o do cuaid. Cluais .i. gleḟis ind fir seo da gleḟis ind ḟir ele. Dedlaid .i. co nach acu ro bui .i. delaigiḋ si ris in fine, gu mi na negmais, ataċ. On med .i. on uair aididnigid innund hi san fini. Duthaig do fine .i. oṫa na .uii. firu deg amaċ. Cobrannaide .i. in dibad. Finte fuidir .i. ata fodeiliugud fillti for fini na fodaer. Fon enmuin .i. is fonae innand lium da beir mougud maeineaċ ar a naṫair re re buḋein e, ocus ar in mac iar re in natar. Ni ren .i. noco raota don aṫair he. Sech macu .i. na geilfini. Sech indue .i. na geilfine.

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[1] *Rackrent.* Explained in C. 807 (H. 8, 18, p. 373 b.), as a milch cow worth a sack, every month to the end of a year.

[2] *Of his labour.* Following this commentary, on the right hand margin of the page is a remark by the scribe, which according to Dr. O'Donovan, is in the handwriting of Egan MacEgan, who says he wrote it in the mill of Duniry, in the county Galway, A.D. 1575, as an improvement on his own decayed old book.

[3] *The nail on the fingers.* This last section of the tribe cannot be deprived of whatever property it is entitled to by its rank in the pedigree.

[4] *The sons,* i.e. should the fourth generation be of age before the death of the progenitor, the latter cannot sell the property without their consent, nor they without his.

[5] *The geilfine.* On the foregoing tract Dr. O'Donovan observes:—From the preceding account it is clear that there were in every tribe inhabiting a 'tuath' or territory seventeen persons who constituted the whole 'Fine,' or pure tribe, and who enjoyed certain privileges that none of the other inhabitants were entitled to; that these seventeen men were divided into four classes, which respectively exceeded each other in dignity, according to their place in the pedigree and their relationship to the reigning chief. These four classes were known by the following names:—

1. 'Geilfine,' which consisted of 5 men;
2. 'Deirbhfine,' consisting of 4 men;
3. 'Iarfine,' consisting of 4 men;
4. 'Innfine,' consisting of 4 men.

But it must be understood that the 'Geilfine' obtained their share of all legacies in land or chattels which devolved from any individual of their own class, as well as from any man, or number of men in the other classes beneath them. The

OF THE VARIOUS DIVISIONS OF THE TRIBE OF A TERRITORY.

son, i.e. of the seven 'cumhals,' and of half the seven 'cumhals,' and of the three 'cumhals,' and of the two 'cumhals.' But if it be in preference to[a] any one of them, the adopted son of an extern tribe *is adopted*, he then gets the rack-rent.[1] And his price is always seven 'cumhals,' unless *adopted* to the prejudice[a] of the tribe; if *adopted* in prejudice[a] of the tribe, he does not get even the price of his labour.[2]

'Glasfine,' i.e. that is, who comes over the azure *surface* of the sea, i.e. the son of a sea-sent person, i.e. he is a son who is borne by a woman of the tribe for a native of Alba.[b] Land of a champion, i.e. the land of a 'gormhac,' i.e. of a sister's son. Separated, i.e. which the tribe have allotted to him. The nail on the fingers, i.e. when all are *positive in* asserting that he is *one* of the tribe. It has passed i.e. it is far from you it is, and it has gone. Ear, i.e. the clear knowledge ('gle fis') of one man added to the clear knowledge of the other. It separates, i.e. so as that it is not with them, i.e. it separates from the tribe, so that it is away from them for a while. In as much as, i.e. since they acknowledged *and received* it into the tribe. The land of the family, i.e. from the seventeen men out. Divided, i.e. the 'dibadh'-property. The families of the 'fuidhir'-tenants, i.e. there are manifold divisions as regards the tribe of the 'fo-daer'-persons. In the same ratio, i.e. I hold that it is the same thing which brings increase of wealth to the father in his own time, and to the son after the father's time. Does not sell, i.e. the father shall not sell it (*the increased wealth*). Of the sons,[4] i.e. the 'geilfine' of the 'fuidhir'-class. The great grandsons, i.e. the 'geilfine.'[5]

'Deirbhfine' obtained no share of the 'dibadh'-property left by any of the 'Geilfine;' but they shared in the 'dibadh'-property which devolved from any member of their own rank, and had their share also of all the 'dibadh'-property left by any members of the 'Iarfine' and 'Innfine.' The 'Iarfine' had no 'dibadh'-property from the 'Geilfine' or 'Deirbhfine,' but they shared all that was left by any of their own class, and also received dividend of all 'dibadh'-property left by the 'Innfine.' The 'Innfine' or lower class received no part of the 'dibadh'-property left by any of the three higher classes, but they shared in all the 'dibadh'-property left by any man of their own class. The commentator reverses the numbers. He should have explained them thus:—

1. The 'Geilfine' represented 17 persons, viz., 5 of their own rank, and 12 of the other classes.
2. The 'Deirbhfine' represented 12 persons, viz., 4 of their own class, and 8 of the lower classes.
3. The 'Iarfine' represented 8 persons, viz., 4 of their own class, and 4 of the 'Innfine.'
4. The 'Innfine' represented their own class only, which consisted of 4 persons.

The 'Dergfine,' 'Duibhfine,' 'Fine Taccuir,' 'Glasfine,' and harlots, were exceptions to the other four.

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[a] Ir. *Over the neck of.*

[b] Ir. *An Albanach.*

O'D. 454.

Innfine co secht fesru d[ec].

Innfine ari is fine diḃ. Innua innfine, athuir iarfine; innua iarfine, athuir derbfine; inua derbfine, athuir gelfine. No, dono, iar cetfuiḋ, cuniaḋ cuicer a ngelfine, ocus cethruir in gaċ fine ot sin amaċ. Ma ro dibatur na ceithri fine, in ti is nesa i nduchaiḋ daine tuas do breiṫ in dibaiḋ, ma ro dibaḋ duthaid daine, in ti is nesa i ninnfíne do breiṫ in diḃaiḋ.

Deirgfine.

In fingalach. Beruit fine a dibaḋside, ocus ni berait a cinuiḋ. Beridsim cin na fine, ocus ni beirinn a ndíḃaḋ; no, o finnfes, ocus o ércfius iar.cetfuiḋ, co mberad dibaḋ athur ocus mathuir ocus in dibaḋ ar fut, ocus co na berad do cul no do taiḃ.

In fingalaċ, o do dena pennuit ocus eiric, no éric a miġníma, beiriḋ a cuit do dibaḋ a athur ocus a senathur, ocus nocha mbeirinn a cuit a mbrud dibaḋ na fine. Ocus mun ḋernuiḋ pennuit ocus eric, nocha beirinn a cuit do neċtur de.

Dergfine .i. in fingalaċ cia ṗinnid, ocus cia ercfius, nocha mbeirinn ni do dibaḋ sguithi na annsguithi na fíne; no, dono, nocha mbeirinn dibaḋ a comfocuis co ro pinne ocus co ro erce; ocus o ṗínnfius ocus o ercfius, beiriḋ dibaḋ sguithi ocus annsguithi ar fut, ocus noċa beirinn do taib; no dono cena, co rucaḋ dibaḋ sguithi ocus annsguithi ar fut ocus do taib, o pinnfius ocus o ercfius, amuil gaċ duine dligṫech don fine.

The following Commentaries on some of the foregoing subdivisions are found in O'D. 454, &c. O'D. 454.

The 'Innfine' to seventeen men.

'Innfine' is the remotest of them. When 'innua'[1] is 'innfine,' the father is 'iarfine;' when 'innua' is 'iarfine,' the father is 'deirbhfine;' when the 'innua' is 'deirbhfine,' the father is 'geilfine.' Or, according to the opinion *of others*, the 'geilfine' consists of five persons, and every family from that out of four persons. If the four families have become extinct, the person who is next to them in the community of the people upwards obtains their 'dibadh'-property. If the community of the people become extinct, the person next them in the 'innfine' shall obtain their 'dibadh'-property.

'Deirgfine.'

That is, the fratricidal. The tribe obtain their 'dibadh'-property, but are not responsible for their crimes. They are responsible for the crimes of the tribe, but do not obtain their 'dibadh'-property; or, according to the opinion *of some*, they are to get the 'dibadh'-property of their fathers and mothers, and 'dibadh'-property in the direct line, but not backwards or laterally, after they shall have done penance and paid 'eric'-fine.

The fratricide, when he has done penance and *paid* 'eric'-fine, or 'eric'-fine for his evil deeds, shall obtain his share of the 'dibadh'-property of his father and of his grandfather, but he does not obtain a share of the house 'dibadh'-property of the tribe. And if he has not done penance or *paid* 'eric'-fine, he shall not obtain his share of either.

'Deirgfine,' i.e. the fratricide, though he should do penance and pay 'eric'-fine, shall not obtain any part of the 'dibadh'-property in moveable or immoveable property of the tribe; or *according to others*, he shall not obtain the 'dibadh'-property of his nearest of kin until he does penance and pays 'eric'-fine; and when he has done penance and paid 'eric'-fine, he shall obtain the moveable and immoveable 'dibadh'-property in the direct line, but not in the lateral line; or, *according to others*, he obtains the moveable and immoveable 'dibadh'-property in the direct and lateral line, like every lawful person of the tribe, after he has done penance and paid 'eric'-fine.

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[1] *Innua.*—This is the fourth generation from the original father, and therefore the 'innfine.'

O'D. 454.

Dubfine as i dombeir fior noilleg.

.i. Fine cunntabartaċ .i. mic ṫaiḋe.

Ce daiṁṫur ar noill, ní ranna orba cen do tuca fir caire no crannċuir. Mic na mban taiġe, cé no gabṫa aoen no deḋe diḃ do cum na fine co fir no co setuiḃ faoesṁa, ma ro forbridar co bfuilet coimlín fine, is ecin fir de anosa dia fastaḋ; no, dono, comaḋ ann ro beṫ in fir dé so lais, iar nemfadbail fire daoine; ocus da ḃfadbaḋ fir daoine do geuḃta uada, ocus do ceṫruiṁaín ata é is in fine cus a tic, ocus cutruma beras ocus gaċ fer dligṫeċ isin fine.

Fri hindfine; act iarum cunranda cethruime.

.i. isi in cethruime fer infinde [1]; no is cethruime ċota caċ mic dligṫig do ar a denuṁ a taidius. Ma lia dubfine, is cetruíme in orbu doiḃ; ma coiṁlín is cetruime; ma uaite is cetruime cota caċ fir tall do caċ fir amuiġ, fo ċoiṁlín. Amail beirius indfine ceṫruime do dibaḋ gelfine, beiriḋ [d]uibfine cetruime ċota fir do dibaḋ, ocus tír a aṫur uile.

Duine sin ata re fine amuiġ co fuil coiṁlín fine, ocus daiṫ ainḋligiḋ air beṫ re fíne amuiġ co na gabur anunn e can fir de lais.

Ciḋ fir daoine do gabur, ocus iar na fastaḋ, caċ ni d roínded roíṁe, can ní dosuiṁ ḋe; ocus caċ ní tarruiḋ gan roinn, co naċ bfuil aċt cetruiṁe cotaċ caċ mic dligthiġ do caċ mac indligṫeċ. No, dono, comaḋ ann no beṫ fir dé uada in tan na faḃuiḃ fir daoine; ocus coma[ḋ] and ro ḃeṫ cetruiṁe cotaċ ċaċ mic dligṫiġ do, aíníṅbuiḋ na fuair aċt triur ar a ċinn ṫall isin fíne, ocus ġaċ ni ro roíndeḋ roíṁe isa cuit do de; no, dono, is cetrur ata isin fine cus a tic, ocus cutruma beirius ocus cach fer dligṫeċ is in bfine cus a ticc.

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[1] Over the 'in' at the beginning of this word there is written, apparently by another hand, ind, intimating probably that the word should have been 'indfine.

The 'dubhfine' is that which offers the test of the ordeal oath. O'D. 454.

That is the doubtful tribe, i.e. secret sons.

Though they are acknowledged by oath, they shall not get a share of land until the test of the cauldron or lot-casting is given. *As to* the sons of the secret women, though one or two of them may be taken into the tribe by a test or with 'seds' of adoption, if they have multiplied so as that they are as numerous as the tribe, the test of God is then necessary to retain them *in the tribe*, or, *according to others*, the time that this test of God is required is when the tests of men have not been procured; but if the tests of men have been procured, they shall be received through them, and to the fourth part of *the lands of* the tribe to which they come, they are *entitled*, and they shall obtain a proportion of it equal to that of every lawful man in the tribe.

As regards the 'innfine;' but afterwards they share in the fourth part *of the possessions*,

That is, it is the fourth man in the 'innfine[1];' or it is the fourth of the share of each legitimate son he (*the son of secrecy*) obtains when he has been begotten in secrecy. If the 'dubhfine' be more numerous *than the whole tribe*, they obtain the fourth part of the land; if they are of equal number it is one-fourth *they get*; if they are fewer, it is the *equivalent of the* fourth part of *the property of* every one within that is due to every man without according to equal number. In like manner, as the 'innfine' obtains the fourth of the 'dibadh'-property of the 'geilfine,' the 'dubhfine' obtains the fourth of a man's share of the 'dibadh'-property and all his father's land.

This is a person who has been with a tribe outside until he has become equal in number with the tribe, and it is to avenge his illegal act upon him for having been with a tribe outside that he is not received within (*into the tribe*) without his having the test of God.

Though it be the test of men that is accepted, and after he is retained *by it*, he shall not receive any part of what was divided before; and, of whatever remained without being divided, the illegitimate son gets but the one-fourth of the share of each legitimate son. Or, indeed, *according to others*, the test of God is required when the test of man has not been obtained; and it is then he gets the fourth of the share of each legitimate son, when he found but three persons before him in the tribe within, and of everything that was divided before, he shall get his share; or, *according to others*, if it be[a] four persons that are in the tribe to which he comes, he shall then get an equal share with every legitimate man in the tribe to which he comes.

[a] Ir. *It is.*

cRıτh ʒaḃlaċ.

CRITH GABHLACH.

crith gaḃlaċ.

Crith Gabhlach.

Cid ara neiper crit gaḃlaċ?

Ni.—Ar indi crenas in fear tuaiṫe dia ḋagfoltaiḃ hi tuaiṫ co nairmither ina gra[d] teċta imbi i tuaiṫ. No, ar a lin do gablaiḃ i fodlaither gra[d] tuaṫe.

Cair.—Cislir fodlai forsuiḋiḃ? A .uii.

Cid as a fordailti graḋ tuaite? A urlann graḋ necalsa; ar nach graḋ bis a neclais is coir cia beṫ a urlann i tuaiṫ. Degfortaig, no diṫiġ, no fiadnaise, no bretemnaċta, o cach do alailiu.

Cesc.—Cadeat grad tuaiṫi?

Fer midba, boaire, aire desa, aire ard, aire tuise, aire forgill, ocus ri. Mad a dlige feneċais, is menbud sunn fordailter na .uii. ngraidri.

Cia, menba boaire cona oċt fodlaiḃ? Aire desa, aire eċta, aire ard, aire tuise, aire forgaill, tanaise ri, ocus ri.

Cadeat fodlai bo-airech?

Ḋa fer midboṫa, ocus occaire, ocus aiṫech ar aṫreaḃ aiṫech, ocus boaire febsa, ocus mbruigfer, ocus fer foṫlai, ocus aire coisring.

Caide imṫach, ocus naidm, ocus raiṫ, ocus fiadnaise, ocus loġ nenech, ocus biaṫa, ocus oṫrus, ocus smaḋa, ocus taurcreic, ocus bes tigi caċ ae?

Ni.—Amail ar in cain fenecus;
Ara ferr grada fene
Fri mes airechta adrimter.

CRITH GABHLACH.

CRITH GABHLACH.

Why is 'Crith gabhlach' so called?

Answer.—Because of the fact that the layman purchases by his good qualifications among the people (*in the territory*) that he be accounted in his proper grade *among the grades* that are in a territory. Or, *according to others*, because of the number of branches into which the grades of society are divided.

Question.—How many divisions are there of these? Seven.

What is the division of social grades[a] derived from? From the similitude of ecclesiastical orders; for it is proper that for every order which is in the church there should be a corresponding one[b] among the people. Good *corroborative* proof, or denial, or evidence, or judgment, *is due* from each of them to another.

Question.—What are the grades of a people?

Answer.—A 'fer mbidboth'[1]-man, a 'bo-aire'-chief,[2] an 'aire desa'-chief, an 'aire ard'-chief, an 'aire tuise'-chief, an 'aire forgaill'-chief, and a king. If it be according to the right of the 'feinechus'-law, it is in such manner these seven grades are divided.

What *is the division*, if it be not the 'bo-aire' with his eight divisions? An 'aire desa'; an 'aire echta'; an 'aire ard'; an 'aire tuise'; an 'aire forgaill'; a 'tanaise' of a king, and a king.

What are the divisions of the 'bo-aires?'

Two 'fer mbidba'-men an 'og-aire,' and an 'aitheeh'-person on the residence of an 'aitheeh'-person, and a 'bo-aire febhsa'-man and a 'mbruigh-fher'-man, and a 'fer-fothla'-man, and an 'aire coisring'-man.

What are the oath, and the binding contract,[c] and the guarantee, and the evidence, and the price of honor, and the refections, and the sick maintenance, and the protection, and the proportionate stock, and the food rent of the house of each?

Answer.—As the 'cain-fenechus'-law says,

"That you may know the grades of the Feine,
By the estimate of the assembly they are counted."

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[a] Ir. *Grades of a territory or people.*

[b] Ir. *Similitude.*

[c] Ir. *Knot.*

[1] *A 'fer mbidboth'-person.*—That is a man of mean condition.

[2] '*Bo-aire.*' 'Aire' is a common name for a gentleman of any rank in society. 'Bo-aire' is the lowest rank, derived from the possession of cows.

CRITH GABHLACH.

Da fer midbotha .i. fer midboṫ imtuing smaċta, imtoing o tsnaṫait co dairt. Isseḋ log enech dia air, dia diguin, dia esain, dia sarug. Issed saiḋis a naiḋm ocus a raiṫ ocus a fiadnaise, ocus a aitire. A biatha aonar, ass ocus grus no arbur. Ni dlig imb. Snaidid a comgraḋ tar a tuaiṫ fadesin, ocus biadtair leis co ndeochaid tar crich.

Cid ara neper fer midbot don fir so? Arani do nicet ammaici adoligid altruma, ocus nad roiġ fertaig.

In forcmaither aes sainreṫech don fir miḋbot imatuing smaċta? Forcmaither aes ceiṫeora mbliadan ndeg.

Is aire ni comruc innsgi na fiadnaise ar ni hinfiadnaise aċt fri caċ suaill, re seċt mbliaḋna .x. na ro gaiḃ seilḃ na comarbas ria sin, manas comatheċ fer fene lais. Isse innsin imatoing smaċta mbruiġreċta.

In fer midboṫ eile conoi innsgi is trebeṙiu side; tecmaltar a innsci do in teora briaṫraiḃ co de tresi; co taoi gin tormach gin diġbail, imustoing andiaiġ naċ aile, ar idfeit illugo. Ocus imtoin colpdaiġ no a loġ: issed loġ enech dia air, dia diguin, dia esain, dia sarug.

Isseḋ saiḋis a naiḋm, a raiṫ, a fiadnaise, a aitire. A biaṫa aonar, ass ocus grus, no arbur. Ni dliġ imb. Snaidid a comgraḋ tar a tuaiṫa, co tabair diablad in bid ḋo.

In toċra ni fil andiu isin aimsir so, aċt loġ a deggfolta do caċ iar na mbiaḋ, itir foċraic lego, ocus lin, ocus biaṫa, ocus log nainme, amaircc easboḋa; aċt bid coitcinn dligis caċ ngraḋ do graḋaib tuaiṫe i corus otrusa.

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[1] *In lieu of fosterage.*—If the correct reading were 'ndicet,' as Professor O'Curry suspected, not 'nicet,' he would translate the sentence, "because his sons (*by his position*) are exempt from the right of fosterage."

[2] *No land.*—O'Curry suggests another translation of this clause, viz., "Or that he is not entitled to a tomb.'

[3] *Preserved.*—That is, probably, considered legal evidence.

There are two 'midboth'-men, i.e. the 'midboth'-man who swears to 'smacht'-fines, and swears from a needle to a 'dairt'-heifer. It is his price of honor for satirizing him, for trespassing on him, for 'esain' to him, for violating his protection. It is to that extent he may become a bond, a surety, a witness, and a pledge. *He is entitled* to feeding for himself alone, milk, and stirabout, or corn. He is not entitled *to* butter. He protects *one of* his own grade over his own territory, who[a] is fed along with himself till he passes beyond the boundary.

[a] Ir. *And he.*

Why is this man called a 'midboth'-man? Because of the fact that he pays his sons in lieu of fosterage[1] (*gives them away*), and that he has no land.[2]

Is there any particular age determined for the 'midboth'-man, at which he swears to 'smacht'-fines? There is determined the age of fourteen years.

The reason why the language of his evidence is not preserved[a] is because he is not eligible as a witness except for all trifling things, before he is seventeen years old, unless he has taken possession, or succession before that, or a man of the 'Fene' *grade* be a co-occupant with him. It is then he swears to 'smacht'-fines in farm laws.

The other 'midboth'-man whose evidence[b] is preserved, is of more weight; his evidence[b] is confronted with him in three words for three days; and if it survives (*stands good*) without increase or diminution, he swears after (*in support of*) another person, because his oath takes precedence. And he swears *up to* a 'colpach'-heifer or its value; that is his honor price for satirizing him, for trespassing on him, for his hindrance for violating his protection.

[b] Ir. '*Language.*

It is to that extent[c] he may become a bond, a surety, a witness, a pledge. *He is entitled to* feeding for himself only, milk and stirabout, or corn. He is not entitled to butter. He protects *one of* his own grade over his territory, until he gives double food to him.

[c] Ir. *It is it.*

The sick maintenance is not in existence at this day, in this time, but every one receives the value of his good qualifications, according to his dignity, both as to doctor's fees, and company, and food, and the compensation for a maim, if it extends to mutilation;[4] but it is the same right that all the grades of the territory have under the law of sick-maintenance.

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[4] *If it extend to mutilation.*—O'Curry was in doubt whether the translation of this clause should not be "according as it may happen to be."

CRITH GABHLACH.

Tongar fri corp ocus anmain, ocus do teit aitire ar fer ferus in fuil, i corus oṫrusa, i mboin. Aconaig tar fot cruach; in ardnimed didite dieim ar dian tola sluaiġ; ina urgell tareise cin lepaid ar cuile liaiġ, itargo lego, co derosc in arslaine, ina iarslaine. Is slan lina lepta a snaḃad co forus tuaite.

Cadeat a folai corai o cach fris a curṫar aitire fri buiṫ reir lego?

Ogfriteċt for raṫa, mana eta nech a fresad o fir cinaiḋ; combi ar egin do bongar. Is co nogoire ocus eneclann fo ṁiaḋ atgairter, cid tre ednged ro toṫar. Teit ocus a ṁatair for foluċ. Uachtar ar leamlaċt do hi triri, a coicti, i nomad, a ndechmad, a ndomnaċ.

In forcmaiḋter o ċeteoraiḃ bliaḋnaiḃ deg co fiċtiġ co cuairt ulcaiḋ.

Cia beiṫ ara rogbad boairechas riasiu ro ba cuairtid, ni ica a luga acht alluga fir midbota.

Cia beiṫ gin gaḃail norbai dana, co crine, ni teit a luiġe o fir midboṫa beos.

Biṫ a ṫurcreicc coic setuiḃ. Molt cona forair bes a ṫiġe.

Isse bes oen cinneda insin, fer na treaḃaiḋ seilḃ na ferann do fadeisin.

Forair in ṁuilt; di bairgin deg, imb, neimbeoil, imglaice cainne co cennaiḃ, ian oil airs, tri barsaiḃ, ochtar ocus lemlaċt ocus drauimce no blaṫach.

Ni dligter foṫus a ṫiġe do neoch cein mbis maici, co mbi tualaing saintreḃṫa, ocus gabala sealb. Do fir midboṫa cein

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[1] *The bed-carrying party.* Over the a of the word 'lina' there is written in the MS. the usual symbol for 'no,' 'or,' intimating that the word might be 'lino.'

He (*who sheds the blood*) is sworn to *both* body and soul, and a pledge is given by the man who sheds the blood, in the law of sick-maintenance, to *the amount of* a cow. He is conveyed over the bloody sod; the noble chiefs protect him quickly from the rapid rush of a crowd; and a new pledge *is given* afterwards not to put him into a bed[a] forbidden by a doctor, *and* to provide a doctor, until his present health is decided, and his after health. *As to* his bed[1]-*carrying* party it is safe for them[2] to protect him to the territory house (*hospital*).

[a] Ir. *Without a bed.*

What are the proper duties of every person for whom a pledge has been given that it shall be according to the *directions of the* doctor?

The whole of the attendance *falls* upon the securities, if a person (*the invalid*), does receive not his cure from the criminal; and it may be obtained by force. It is to *the amount of* his full 'dire'-fine and honor-price, according to grade, he sues, though it be through a tongueless person[3] he demands it. He goes, and his mother, upon *sick* maintenance. Cream upon new milk *is to be provided* for him on third, on fifth, on ninth, on tenth days, and on Sundays.

Is there *anything* determined for him, from fourteen years to twenty, till the encircling of beard?

Though he happened to take the rank of 'boaire'-ship before the encircling *of a beard*, his oath does not take more effect than his oath as a 'midboth'-man.

Though he remained till his old age, if he get not land, his oath does not pass from that of a 'midboth'-man still.

His proportionate stock is five 'seds.' A wether with its accompaniments is the food-rent of his house.

(This is the food-rent of a last survivor,[4] a man who does not plough (or occupy) a possession or a farm for himself.)

As to the accompaniment of the wether; *it is* twelve cakes, butter, 'nembeoil,' a handfull of leeks with their heads, a milk drinking mug of three hands *in height*, cream and new milk and 'draumche'-milk or buttermilk.

Refections at his house are not due to any person as long as he is in the condition of a son, until he is competent to have a separate residence, and to the taking of land. *So with* the 'midbaidh'-man as

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[2] *It is safe for them.* That is, they have performed their duty, and are exempt from further liability.

[3] *A tongueless person.* That is, not a professional pleader.

[4] *Last survivor.*—That is, a person who has neither father nor mother living neither sister nor brother, or relative, none interested in him but the foster-father. He was somewhat in the position of a foundling.

bes noen cinid; acht ma frisnasar a flaiṫ, na fuilnge a bes tar molt cona forair.

Ma forberu foled a ṫigi co mbi folad mboairech no ni bes ardou, torba corus a tuircreicca dosom asuidiu. Toformaig cadesin somaine co mbi bes a tiġe ann iar na ṁiaḋ, mana congla naċ flaiṫ aile fris. Leṫorecht huad i ngort dia treise iar focra; trian a ḃuinn, ocus a mesca, ocus a lesca, ocus a erca do ḟlaiṫ.

Ocaire is ardu a airecharadi.

Ciḋ ara neper ocaire? Ar oitiu a airechais; cedh acht uaire is nue o ro gaḃ treaḃaḋ

Caide a toṫacht? Folod seċta lais; .uii. mbae cona tarb; uii. muca co muic forais; uii. caire; capul itir fognum ocus imrim; tir ṫri .uii. cumal les. Is e tir mbo la fene insin, foloing .uii. mbuu co cenn mbliaḋna .i. adaigter .uii. mba inn. Faccaiḃ in seċtmad mboin dia ḃliaḋna a fochraic in tire. Cethraime arathair lais; dam, soc, brot, cennose, co mbi tualing coimse. Cuit a nait, immuilin, i saball; scaball cocuis.

Met a tiġe; mou tig incis ar it .uii. traiġe .x. a meit side. Fidti co fordorus. Dit itir caċ dinti o suiḋiuga co cleiṫe. Da dorus ann. Comla ar alanai, cliath ar alaile, os he gin cliatha cen tulggu. Udnocht coil imbi. Clar ndara idir cach di caomdai.

Is mo tech nocairech. Noi traigi .x. a metside. Tri troigi .x. a ircha. Ara rorand aithir bes a tigi i ndi.

Oċt mbu a tuircreicc. Ite .v. seoit insin. Ised diabal taur-

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[1] *Last survivor.*—See note (⁴), page 303.

[2] *Third part of his theft.*—That is, it would seem, the third part of the fine, &c., for anything stolen from him, for making him drunk, for wounding him so that he may be lame for life, &c.

long as he is *in the condition* of a last survivor,[1] (*i.e., until he is able to take a distinct residence and possession for himself*); but if his chief prevents him *from so doing* he should not bear more of food-rent than the wether with its accompaniment.

Should the property of his house increase until it becomes *equal to* the property of a 'bo-aire' or higher, his right to proportionate stock increases to him on that account. He increases the income until it be the food-rent of his house, according to his rank, unless another chief enters into a compact with him. In three days, after notice, half a portion (*of fencing?*) is due from him for a field; a third part of *the fine for* his theft,[2] and his drunkenness, and his laming, and of 'eric'-fine *for killing him* goes to his chief.

As to an 'og-aire,' his position as an 'aire' is higher.

Why is an 'og-aire' so named? Because of the youthfulness of his 'airechus'-rank; because it is newly he has taken householdship upon him.

What is his property? He has a property of sevens; seven cows with their bull; seven pigs with a boar pig;[a] seven sheep; a horse for work and for riding. He has land of three seven 'cumhals' *value*. With the Feine this is a cow-land, which supports seven cows to the end of a year, i.e. seven cows are put upon it. He leaves one of the seven cows[b] at the end of the year in payment for the land. He has the fourth part of ploughing-apparatus; an ox, a ploughshare, a goad, and a bridle (*for the ox*) so that he can be mastered. *He has* a share in a kiln, in a mill, in a barn; *he has* a cooking pot.

[a] Ir. *House pig.*

[b] Ir. *The seventh cow.*

As to the size of his house: it is larger than a house of 'inchis.'[3] for seventeen feet is the size of that *house*. It is interwoven (*wattled from the ground*) to the lintel. A dripping-board is placed between every two weavings from the base to the ridge. Two doorways *are* in it. *There is* a door to one of them, a hurdle to the other, and it is without partitions and without holes. A palisade is around it, of slight wood.[4] An oak board *is to be* between every two beds.

The 'og-aire's' house is larger: nineteen feet is its size. Thirteen feet is *the size of* its backhouse (*kitchen*); *or*, because his father has divided his food-rent in two with him.

Eight cows are his proportionate stock. This consists of ten 'seds.' This is double the proportionate stock of the grade which

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[3] *A house of 'inchis.'*—That is, a house built for an aged man of the family who gives up to the family his patrimony on condition that they support and attend to him during the remainder of his life. *Vide* C. 807.

[4] *A palisade, &c.*—Professor O'Curry's first translation of this clause was, "Narrow beds in it."

crecca in grad fil riam; ar is di thir giallaid in gradsin; is di thir, dono, log a .x. seoit dosom dia turcrec; bid, dono, a ṫir sin for fola friss do. Dartaid indi cona timtach bes a tiġe. Tairr muca les as tine iccas la boin, no ṫine ordlaiġe, in na chumbu coir, ocus tri meich mbracha, ocus let meich tarai. Ar amail ndiabul turchreaca in grad is isliu turchreic in grad is ardu, is diabul somaine, dono, bes a tiġe. Snadiġ a comgrad, ar ni snaḋig naċ grad nech bes ardu. Biathad deisi dó, di as ocus grus, no arbaimm. Ni dliġ imb. Cuad da ordlaċ .x. di draumcu ar lemlaċt ceċtar nai, ocus bairgin indruic, no di bairgin banfuine. A diis for folaċ. Imb isuiḋiu a treisi, a coice, a nomad, a ndechmad, i ndomnaċ. Tri seoit loġ a enech, aċt it seoit boslabra; dire naitire do.

Cid dia neirenaiter dosom in tseoit so?

Nin—Dia aoir, dia esain, dia diguin, dia tsarugad, do losca a tiġi, dia turorguin, do gait as a leṫ, do gait ind, di forcur a mna, a ingini. Aċt as breṫ la fene leṫ diri gach graid tuaithe for a mnai, ocus a mac, ocus a ingin, aċt ma dormaine, no mac bes elodach ria ngairi.

Cethratha forsuidib loġ a eneċ; isеḋ imatoing, ocus tet for a naidm, ocus a raith, ocus a aidire, ocus a fiadnaisi. Os in da ḟet tesbanad aire, huaire nad noġ forruga a ṫigi, ocus nad ninraith friu, amail gaċ boairi, ar loiged a folad.

Aithech ar aṫreba; a deich deichde a̧ ḃuarrsiḃe .i. deich mbai lais .x. muca .x. cairiġ, cethraime arathair .i. dam, ocus soc, ocus brod, ocus cennos .r. Tech fichet traiged les, co nairchai ceṫra traige ndeg. iiii. seoit a dire dia air, dia

[1] *Woman's baking.*--The woman's baking was half the man's baking.

[2] *Of a hostage.*—That is, if he is given in pledge, he is entitled to his own damages.

is before him; because it is for land the grades take service; it is for land that he is entitled to the value of his ten 'seds,' as his proportionate stock; he has his land *given him* according to qualifications. A 'dartaidh'-heifer at shrovetide with its accompaniments is the food-rent of his house. A hog's belly in bacon he pays, along with a cow, or a *whole hog in* bacon, of an inch *of fat*, properly cured, and three sacks of malt, and half a sack of wheat. Because in the same way that double the proportionate stock of the lower grade is the proportionate stock of the higher grade, so is the food-rent of his house double profit. He protects his co-grade, for no grade protects a person higher *than itself.* He has refections for two men, in milk and stirabout, or in corn. He is not entitled to butter. A mug of twelve inches of sour milk upon new milk *is due* each time, and a lawful *man's* cake, or two cakes of woman's baking.[1] He has two *attendants when* on sick-attendance. They are to get[a] butter on third, on fifth, on ninth, on tenth days, and on Sundays. Three 'seds' are the price of his honor, but they must be 'seds' of the cow kind; he is entitled to[b] the 'dire'-fine of a hostage.[2]

[a] Ir. *Butter for them.*

[b] Ir. *For him.*

What are these 'seds' paid to him for?

Answer: For satirizing him, for his 'esain,' for insulting him, for violating his protection, for burning his house, for stealing from him, for stealing out of his house, for stealing *anything* into it, for forcing his wife, his daughter. But it is a decision with the Feine that half the 'dire'-fine *due to a man* of every grade in a territory is *due* for his wife, and his son, and his daughter, excepting *the case of* a 'dormuine'-woman, or a son who evades the supporting *of his parents.*

There are four things in which he acts to *the extent of* his honor-price; it is that which he swears to, and it goes on his security, his guarantee, his pledge, and his evidence. And the two 'seds' that are wanting to it (*his price of honor*), *are wanting* because the stability of his house is not perfect, and that he is not competent to undertake liabilities for them, like every other 'bo-aire,' for the smallness of his property.

aithech

As to a tenant resident; ten of tens are his cattle, i.e. he has ten cows, ten pigs, ten sheep; a fourth part of ploughing apparatus, i.e. an ox, and a ploughshare, and a goad, and a bridle. He has a house of twenty feet, with a kitchen of fourteen feet. Four 'seds are his 'dire'-fine, for satirizing him; for his 'esain;' for in- ✓

CRITH GABHLACH.

erain, dia ḋiguin, dia sarug. Imoscoing, as naidm, is raith, is aitire, is fechem, is fiadnaisi fris. Deich mba a tarcreicc. Forggu dine ocus tine da mer ina ċumbu coir ocus ceṫre (no ceitir) meich bratcha, ocus frolan airmeide di tarsu, ise bes a tiġe. Tincur coir, itir erna ocus lestrai.

Ise aiteċ baitside inso, dia mbe in a enncai, cin gait, cin brato, cin guin duine acht la a cata, no nech dosaiḃ a cenn fair; os he cona lanamnas coir, ocus denmai in aimb, ocus domnachaiḃ, ocus corgasaib.

Cid nod mbruis in ferso a boairechus? Ar bes bid ceṫrar no coigur beiṫ hi comorbus boairech, conach asa boaire de cach ae. Biathaid deisi do di ass ocus gruss no arbainn; imb in ndomnachaib, serccol tarsain lasodain, duilesc, cainnenn, saland.

Dis do for folach. Imim do ala trat,

Boaire febsa cid ara neiper?

Ar is do buaib ata a airechass ocus a eneclann. Tir da .uii. cumal leis. Tech .uii. traiged xx. it, co nairchai coic traigid ndéac; cuit immuiliunn co nairmil a muinntir, ocus a a dáma. Aith, saball, lias caisrech, lias laeg, mucfóil. It he insin .uii. cleitiu ó ndirenar caċ boairi. Bisd di bai .x. leis; leṫ naraṫair, capul fognuma ocus ech immrimme. Di bai .x. a ṫauracreicc. Colpdaiċ firend cona ṫimthug bés a ṫigi, in tsaimbiad ocus gaimbiad. Coic seoit ina díriu doneoch iss gress do dia eneclann.

Cid do bir na coic séotu do eneclann in boairig?

Nin—A gnima; set a nadma, set a raiṫi, set a fiadnaisi, set a aitiri, set a foraiġṫi, ocus a brithemnais for mbruigreitt. Imtoing coic seotu; tiagait for a naidm, ocus a raiṫ, ocus a

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[1] *Four.*—'No ceiṫir' is an interlined *aliter* reading.

[2] *A 'bo-aire.'*—The portion of this tract taken from C. 488 ends here; the remainder is from the portion of the tract in C. 1–16 (H. 3, 18, 1–6).

sulting him; for violating his protection. He swears, he is a security, he is a guarantor, he is a pledge, he is a suitor and witness for them (*to the extent of four 'seds.'*) Ten cows are his proportionate stock. The choicest of a herd *of cows* and a bacon *pig* of two fingers *depth* properly cured, and four[1] sacks of malt, and a wooden vessel of salt, is the food-rent of his house. *He has* proper furniture including iron and wooden vessels.

This man is an immovable tenant, if he is blameless, has not robbed,[a] has not stolen, has not wounded a man, except on the day of battle, or a person who sues for his head from him; and he is in his lawful *matrimonial* union, and is pure as regards Fridays, and Sundays, and Lents.

What is it that puts[b] this man from being in the rank of a 'bo-aire'? Because it may be that four or five such may occupy the land of a 'bo-aire,' and it could not be easy for each of them to be a 'bo-aire.'[2] He has refections for two, of milk and stirabout, or corn; butter on Sundays, salted venison along with these, sea-grass, onions, salt.

He has two persons on sick attendance. He gets butter[c] on alternate days.

'Bo-aire febhsa' why is he so called?

Because it is from cows his rank as an 'aire' and his honor-price are *derived*. He has land of *the value of* twice seven 'cumhals.' *He has* a house of twenty-seven feet, with a back-house, (*kitchen*) of fifteen feet; a share in a mill in which his family may grind, and his visitors. *He has* a kiln, a barn, a sheep-house, a calf-house, a pig-sty. These are the seven houses from which each 'bo-aire' is rated. He has twelve cows; half *the means* of ploughing, a working horse and a riding steed. Twelve cows are his proportionate stock. A male 'colpach'-heifer with its accompaniments is the food-rent of his house in summer food and in winter food. Five 'seds' *are due* to him as his 'dire'-fine which are permanent to him as his honor-price.

What is it that causes the honor-price of the 'bo-aire' to be five 'seds'?

Answer: His deeds; a 'sed' for his binding,[d] a 'sed' for his guarantee, a 'sed' for his evidence, a 'sed' for his pledge, a 'sed' for stability, and for his judgment upon land law. He swears to five 'seds,' they come on his binding,[d] his guarantee,

[a] Ir. *Without robbing.*

[b] Ir. *Breaks or bears.*

[c] Ir. *Butter for him.*

[d] Ir. *Knot.*

CRITH GABHLACH.

aitiri, ocus a fiadnaisi. A biathad triúr; triur do for folaċ; Imbin do i ndissi, i trissi, i cóicid, ind nomaid, i ndechmaid, i ndomnach. Fír cáinnenn, no saillti do tarsun. Ní tesban di ḟoltaib in boairig tesban di a díriu.

Mbruigfer cid ara neper? Dí lín a mruige. Tir tri .uíí. cumal lasuide. Isé boaire reire breiṫe. Boaire gensa; co cách in chruth a thiġe, in na áttaib coraib. Caire cona inbiurb cona lorggaib; dabaċ in ro immdeltar bruṫ; caire fognuma folestrai, itir erna ocus loiste ocus choidiu, conā heísedar; ammbúr indlait, ocus long foilcṫe; drochta, caindelbra, scena buana aíne, lomna, tal, tarathar, tuiresc, díar, fidchrann eirit, aicced fognama cacha raiṫe. Cach ndeilm de cen iasacht; lia, forcaid, fidba, bíail, gaí gona cethrai, teine bithbeó. Caindel for caindelbrai cen mech. Og naraṫair cona huile comopair.

Ite inso tra gnima boairig reire bruthe. Biit dí iaín in na ṫig do grés, ian aiss ocus ian chorma. Fer tri sruba; sruib tuirc fochlaid scoltas ainechruicce cach aimsir; srub tine for cruiċ; sruba arathair fo rinn; ar imtuolang gabala rig, no espuic, no suad, no brithomun do rout; fri tascra cecha dama. Fer tri miach inna tig do gres cech raiṫi, miach mbracha, miach muir luacha fri aithcumba naige dia ceithri, miach guaili fri ernna. Secht tige lais, aith, sabald, muilenn, a cuit isuidiu conid nairmil; tech .uii. traiged fichit; ircha .uii. traiged ndec, mucfoil, lias loeg, liass cairech. Fichi bo, da tarbb, se doim, fichi muc, fichi coirech, ceithri tuircc forais, di birit, each sliasta, srian cruain. Sé méich déc i talmain. Taṫai cairi humai i tallai torcc. Techtuig faithċi

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[1] *Salted meat.*—O'Curry, in his second and revised translation of this tract, renders 'saillti' 'a salted crooked bone,' it is not known on what authority. 'A crooked bone' (camċnáṁ) was the portion of the 'Aire-tuisi,' and of other persons of rank, at the banqueting house of Tara. *Vide* Petrie's 'Antiquities of Tara Hill,' p. 205, *et seq.*

[2] *With its spits and its spindles.*—Professor O'Curry in his second translation suggests "flesh-forks and lifting poles" as a better rendering for this obscure clause.

his pledge, and his evidence. His feeding *is a feeding* for three; three *attendants are due* for him on sick-maintenance. Butter *is required* for him on second day, third, fifth, ninth, tenth, and on Sunday. *He is entitled* to true onions, or salted meat[1] as condiment. Anything that is deficient of the qualifications of the 'bo-aire' shall be wanting to his 'dire'-fine.

'Mbruighfher,' why *is he* so called? From the extent of his grass-lands. He has land of *the value of* three times seven 'cumhals.' He is the 'bo-aire' for obedience to judgment. *He is* a 'bo-aire-gensa;' he has every necessary furniture of his house *all* in their proper places. He has a caldron with its spits and its spindles;[2] a vat into which a boiling *of ale* is poured; a serving pot with minor vessels, both irons, and troughs, and mugs, with which to eat out of it; a washing trough, and a bathing basin, tubs, candelabra, knives for reaping rushes, a rope, an adze, an auger, a saw, a shears, a wood-axe which cuts implements for every quarter's work. Every item of these *he shall have* without borrowing; a *grinding*-stone, a mallet, an axe, a hatchet, a spear for killing cattle, ever-living fire; a candle upon a 'candelabra' without fail; a perfect plough with all its requirements (*joint work*).

These then are the deeds of the 'bo-airech' for obedience to judgment. There are two casks in his house constantly, a cask of milk and a cask of ale. *He is* a man who has[a] three snouts; the snout of a rooting hog at all times to break the blushes of his face;[3] the snout of a salted hog upon the hooks; and the snout of a plough pointed; for he is able to receive a king, or a bishop, or a poet, or a judge from off the road; *and* for the visit of all companies. *He is* a man who has[a] three sacks in his house each quarter perpetually, *i.e.* a sack of malt, a sack of salt for curing the joints of his *slaughtered* cattle, a sack of charcoal for the irons. He has seven houses, a kiln, a barn, a mill, a share in it so that he can grind; a house of twenty-seven feet, a back-house of seventeen feet, a pig-stye, a calf-house, a sheep-house. *He has* twenty cows, two bulls, six bullocks, twenty hogs, twenty sheep, four housefed hogs, two sows, a riding[b] steed, a bridle of 'cruan.' *He has* sixteen sacks *of seed* in the ground. He has a brass pot in which a hog fits. He has a lawn in which sheep stay at all times without

[a] Ir. *Of.*

[b] Ir. *A thigh.*

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[3] *To break the blushes of his face.*—That is, he should have always a hog fit to be killed to prevent his having cause to blush at his house being without flesh when strangers come into it.

CRITH GABHLACH.

being driven off. *He has* four suits of clothes with him and his wife. His wife *is* the daughter of a man of his own grade, being his lawful first wife. And his oath is good, his binding,[a] his guarantee, his evidence, his pledge, his loan, his letting (*out for hire*); he is not guilty of[b] theft, of robbery, or of wounding any person. Two 'cumhals' are his proportionate stock. A cow with its accompaniments is the food-rent of his house, both for winter food and summer food. Three are his company in the territory. Three *are required* for him in sick-maintenance. Butter, as a condiment, he is always entitled to. He protects his co-grades. *He has* salt flesh on third day, on fifth, on ninth, on tenth, *and* on Sunday. He makes oath *to the amount of* six 'seds.' He is a binder, he is a guarantee, he is a witness, he is a pledge, he is *qualified to be* a suitor to that amount.[c] That is his full honor-price, but he has five 'seds' *fine* for going over his 'lis'-fort unlawfully. It is lawful to open it for his good. Five 'seds' *are the penalty* for unlawfully opening his house; a cow for looking into it. A 'dartaid'-heifer *is due* for a lock *of thatch taken* from it; a 'dairt'-heifer for *taking* two, a 'colpach'-heifer for an armful, a 'samaisc'-heifer for half a truss, a cow for a truss, and restitution of the straw. Five 'seds' *are the penalty* for going through his house or his 'lias'-house (*cow or sheep-house*) by breaking its door, a 'dartaid'-heifer for a lower lath,[d] a 'dairt'-heifer for an upper lath, a 'samhaisc'-heifer for a lower wattle, a 'colpach'-heifer for an upper wattle, a 'dairt'-heifer for the front door-post of his house, a 'dartaid'-heifer for the back door-post of his house. Half the honor-price of every (or any) grade of a territory *is due* for stealing what may be in it out of his 'airlis'-enclosure (*yard*); a seventh for stealing in it. The cast of a 'sned'[1] in all directions *from his house* is the proper extent of his 'airlis'-enclosure. Half 'dire'-fine in addition *is due* for a ridge. To break on the floor of his house is lawful and unlawful. All small *breaking* is lawful, all large *breaking* is unlawful. Gold, and silver, and bronze are lawful; all troughs and ranges which are more properly on the floor are unlawful. A 'dairt'-heifer *is the penalty* for *injuring* the front lintel, a 'dartaid'-heifer for the tearing or notching the rere lintel, together with restitution of everything, be it small or not small; a 'dairt'-heifer for every injury to its wall.[2]

[a] Ir. *Knot.*

[b] Ir *Without.*

[c] Ir. *For them.*

[d] Ir. *A wattle below.*

co ꝼꞃaıġ,' in his revised translation. In his first translation he was in doubt as to whether the meaning of 'ꞅaıꞃe' was 'carpentry' or 'a litter of rushes.' The whole paragraph is extremely difficult, and there seems to be a defect in the MS.

CRITH GABHLACH.

Diles nindles nairidi do bruud. Diles ní bes íslu ordd, indless ní bes ardu ordd. Foranu chuile a chumat dírech nairidi. Noes nua dia esair.

Direch nímda; diam dlaí do chind adairt, direnar dagchercaill. Diam dlaí doneoch bis fo suidiu, direnar daggamun. Diam dloí di ċossaib, direnar dagassaib. Diam dluí do fraig, aín nua dia essair. Diam tochur tar cend, sét inn, ocus aithgin.

Diles ocus indless i nimmid. Diles suide ocus freisslighi inni, ocus cia brontar inni, co comardda cinn issuidiu; innles inní bes ardu cinn. Dí loairgg direnaiter seot; mad raiṫiu chua, leṫ iarmoiṫa.

Mlech dicmaircc immuiliunn mrugḟir, coic seot, ocus dilse mine melar ditmaircc, ocus log aenech, dia toichne a damam. Dia ma brondad, aineclann caich ara aí, ocus aithgin la tairgell mlechei.

Mada aith ro bronntar dichmaircc, bo co ndairtt a daíre ocus aiṫgin. Diles ní ro bronntair inni, aċt adraimm tuarggar for lar, ocus a sretha sét fadessnei.

Dire a saball, coic seot ocus aithgin conneoċ ro bronntair ann. Díre a mucḟolach, coic seoit mucaib ocus aithgin.

Dire a béla, colpdaiċ, a leṫ dia froba, ría ré 'imbi; is colpdaċ i suiḋíu.

Fer fothlai cid ara neiper?

Isé remibi boairechaib insin, ar in ni fótlen a boairecus do ṫaurcreicc ceilí. Forcraid a cethrai, a bo, a mucc, a cáireg nad fo chomlaing a thír fadeisin, ocus nad éta reicc ar thír, ni ric a less fadeisin, tabeir thaurcreicc ceilé.

Caiti somaine sét inn fir sin?

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[1] *For breaking into his kitchen.*—In his revised translation, Professor O'Curry translates (with a note of interrogation) 'the whole front,' as if he suspected that the reading should be, 'foranuch uile,' not 'foranu chuile'? 'Direch nimda' of the next paragraph he appears to have thought might mean 'many strippings.'

CRITH GABHLACH.

It is lawful *and* unlawful to break lintels. What is lower in position is lawful, what is higher in position is unlawful. For breaking into his kitchen[1] the 'dire'-fine is the same as for the lintel. It (*the kitchen*) must be littered with new straw.

As to the 'dire'-fine for a bed; should it be *stripped of* a lock of the pillow, there is paid a good pillow. If the part for sitting on *is stripped of* a lock, a good skin is *to be* paid; if it be a lock from the feet, good shoes (*covering*) are paid. If it be a lock from the roof (or back) *that is taken*, new straw is *to be given* to cover it. If it (*the offence*) be an upsetting, a 'sed' *is due* for it, and compensation.

Of what is lawful and unlawful as regards a bed. It is lawful to sit and recline in it, and though anything be broken in it up to the level of the head, by sitting; anything above *the level of* the head is unlawful. Two 'loargs'; a 'sed' is paid, if totally destroyed, half after that.[2]

For grinding without leave in a 'Brugh'-man's mill, *the penalty is* five 'seds,' and the forfeiture of the meal that is ground without leave, and his honor-price, should *it cause* his visitors *to* fast. Should it (*the mill*) be damaged, *the fine is* the honor-price of the party whose it is, and compensation with a pledge for the grinding.

If it be a kiln that is used[a] without leave, a cow with a 'dairt'-heifer is its 'dire'-fine, with compensation. The using of it is lawful, *without further compensation*, except so far as what is cast on the floor, and *as to injury* to its own sets of implements.

[a] Ir. *Damaged.*

As to the 'dire'-fine for his barn, *it is* five 'seds,' and compensation for every thing which is used[a] in it. The 'dire'-fine for his pig-stye *is* five 'seds' for the pigs, and compensation.

The 'dire'-fine for *using* his hachet *is* a 'colpach'-heifer, half that for his wood axe, before fencing time; it is a 'colpach'-heifer for that.

A 'fer fothla'-chief, why is he *so* called?

He is the leader of the 'boaire'-class, because his 'boaire'-ship extends to *giving* proportionate stock to tenants. The excess of his cattle, *i.e.* his cows, his hogs, his sheep, which his own lands cannot sustain, and which he cannot sell for land, *and* which he does not himself require, he gives as the proportionate stock of tenants.

What are the profits of that man's 'seds'?

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[2] *After that.*—The original of this paragraph is very obscure, and the translation, to a great extent, conjectural.

CRITH GABHLACH.

Somaine grain diib; log gerṫa cacha bó do grán arba biid; ar ni dlig aithech mbraiṫ eorpflaith.

Cest—Cuin is flait an taithech din boairechus? I ndul is friṫ faithce. In tan mbis diabol nairechdesai lais, iss ann is airi dissa dia neper boaire remibí boairechaibh; berid diib derscugud dia taurcria ceileu nach airedessa; conid roib defride .i. diabol nairíchdeusa. Ocht seot illog a enech. Ni ar mrugḟer riam in tan dín diablas feib mbouirech, is and is airi desa; ar ni cumscaigi ainm ngraid dosum cia do rormai a ineclann co sin anall. Imtoing ocht seotu. Is naidm, is rait, is aitiri, is fechem, is fiadnase friu. Cetheora cumalai a thuracreic. Bo cona timthaċ cechla bliadnan bés a tigi; colpach firenn lee in mbliadain naili. Uii. traigid ficit a thech; a .uii. ndec a airchai. Cethrar lín a dama; im co tarsun dó do grés. Cethrar dó for folach. Fursunduṫ cethrair. Sall do hi treisi, i .u.ti, in nomad, i ndechmaidh, i ndomnach. Is din grad so arcain Fenechus; Dligitt firḟlaiṫe forcraid for réir rímde. Ro saigh anflaith leṫ aithgin moíne mogess; mana deiċ seoit soerait, segait.ú. seoit cundarṫa combí og ninnraic naithgina, ar it baill leṫ ó ḟaill necsmacht.

Aire coisring cid ara neper? Ar inní consrenga tuath ocus ri ocus senod tar cenn a cheniuil na dlig a slan dóib for curu bél. Acht atndaimet do thuisech ocus aurlabrai remib. Is hé aire fine innsin; tobeir gell tar ceann a ḟine do rig, ocus senod, ocus aes cerdd, dia timorggain do reir.

Cia méit in gill do ber? Gell coic seoít dineoċ rod mbí, di argat, no uma, no ibur.

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[1] *Until he is a 'flaith'-chief.*—That is (according to Professor O'Curry) not being an original land owner or 'flaith,' but only a kind of tenant himself, he is not entitled to receive malt in return for his cattle let out, as the 'flaith' is for his lands, but only to corn.

[2] *A true green.*—That is (remarks Professor O'Curry), when his green or inviolate

A profit of grain *is got* by them; the value of the milk of each cow in corn grain, he gets *by them;* for an 'aithech-tenant' is not entitled to malt, until he is a 'flaith'-chief.[1]

Question.—When does the 'aithech'-tenant become a chief leaving[a] the 'bo-airech'-ship? Upon going into a true green[2] when he has double as much as the 'aire desa,' it is then he is an 'aire-desa,' who is called a 'bo-aire' that takes precedence of 'bo-aire'-chiefs: he them excels by giving proportionate stock to the tenants of any 'aire desa'-chief, and this makes the difference, i.e. double what the 'aire desa' has. Eight 'seds' are his honor-price. It is not among 'brughaidh'-men he is counted, when he doubles the property of a 'bo-aire,' it is then he is an 'aire-desa'; for the name of his grade does not change though his honor-price increases up to that. He swears *to* eight 'seds.' He is a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent. Four 'cumhals' are his proportionate stock. A cow with its accompaniments is the food-rent of his house every second year; a male 'colpach'-heifer with her the other year. Twenty-seven feet *are the dimensions of* his house, seventeen feet *of* his backhouse (*kitchen*). Four is the number of his company; butter with condiment *is due* to him at all times. Four *are due* for *attendance on* him in sick maintenance. Food for four is required. Salt meat for him *is due* on third day, on fifth, on ninth, on tenth, on Sundays. It is of this grade the 'Fenechus'-law says: "The true chiefs are entitled to the full in accordance with numbering. The 'anflaith'-chief receives but half compensation for property which accumulates; *where* ten 'seds' free, it is five 'seds' of contract he receives, which amount to a perfect faithful restitution;[3] for one half dies in fault of the forcible rule[4] (*or lordship*?)"

Why is the 'aire-coisring'-chief so called? Because that he binds people, king, and synod in behalf of his tribe (*kindred*), in their rights of safety by verbal engagements. But they concede to him leadership, and *a right* to speak before (or for) them. He is the family-chief then; he gives a pledge for his family to king, and synod, and professional men,[5] to restrain them in obedience *to the law.*

What is amount of the pledge he gives? A pledge of five 'seds' of whatever kind it may be, of silver, or of bronze, or of yew.

[a] Ir. *Out of.*

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lawn should consist of four fields at the four points around his house, whereas, in his rank of 'boaire,' his 'air-lis' (yard) extended but the cast of a wand all round.

[3] *A perfect faithful restitution.*—The clause may mean "so that he be perfectly worthy of whole compensation."

[4] *The forcible rule.*—"ꝼaıll necꞃmachꞇ" may also mean "unlawful neglect."

[5] *Professional men.*—That is, literary professors, people of any trade or art, other than farmers of land.

CRITH GABHLACH.

Caite slán a gill.

Do cacha airchi ro sia tar cenn dara dindnagar cenn; co dechmaid fuillem in gill ocus in nericc a gnimu, ocus lóg a enech iar na miad iarsaidiu, mad a gell coir do rata. Os mad do ratta forcraid ngill, is log a enech ocus a gell slan cona fuillem do airicc amail fodeim.

Ceist cuin di tuitt a gell?
Dia miss.

Caitte a slan amail fodain?

Do cecha airchi ro sia ro follaigter tar cenn neich cen gell cen fugell de, amhel arindrubartmar; coic seoit, dan, co dechmaid co sa thri, an tucht sin, isé slan a gill insin. Issé, dan, fuillem a sét dian da sera i cumtach. Noi seoit a enechclann. Is naidm, is raith, is fiadnaise, is sechem, is aitire sene. Coic cumal a taurcreicc. Do cona thimtaig ocus colpdaċ sirend cona forrair i ngaimrid, co sambiad, bés a thige. Tech trichat traiged, co nirdai noi troiged indeacc. Coicciur a damam. Imb do, serccol tarsain. Sall do i trisi, i coiccid i nomaid, i ndecmaid, in ndomnach. Is óg log a enech cech graid dirunn mani aurcruat a folaid .i. ar ná torchaiset is naib rechtaib hi tuitet enech caich.

Cateat side?

Nin—A aér, i torgabail cen gell dia inċaib, gu fiadnaisi, gú teist, ailsed naoma, elúd rathaigis, dul tria aitiri im ní di chuat fuiri, tacc for a enech.

Ceist—cid di nig di inċaib neich inna .uii. sa?

Nin—Nach sal aslenna ainech duine bith a trui ócca dithnach .i. sleic, ocus ursce, ocus anart. Ised is sleic cét [amus], fóistiu

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[1] *Neglected.*—Professor O'Curry remarks here, "If any one of his people for whose good conduct he has given a pledge, should break it, the pledge becomes

What is the security of his pledge?

A cow every night is given for every one for whom the pledge is given; as far as ten *nights* is the interest of the pledge and of the 'eric'-fine of his act, and his honor-price according to his dignity besides, if it is a proper pledge that is given. And if an excess of pledge has been given, it is his honor-price, and his pledge safely with its interest, that is to be restored to him in the same way.

Question.—When does his pledge become forfeit?[a]

After a month.

What is his security then?

A cow every night is given for what has been neglected[1] *to be given* for every one for whom there is not[b] pledge or word (judgment), as we have said; five 'seds,' now, as far as thrice ten nights, on this occasion, is the security of his pledge in this case. This, then, is the interest of his 'seds' if he has given them away in a cover (*or box*). Nine 'seds' are his honor-price. He is a binder,[c] he is a guarantee, he is a witness, he is a party to a suit, he is a pledge to that extent. Five 'cumhals' are his proportionate stock. A cow with its accompaniments, and a male 'colpach'-heifer with its proportion of other food in winter, together with summer food, is the food-rent of his house. *He has* a house of thirty feet, with a backhouse of nineteen feet. Five *are* his company. He is entitled to butter,[d] with salted venison. Salt meat *is due* for him on third day, on fifth, on ninth, on tenth, on Sunday. The honor-price of every grade of these is perfect unless their qualifications diminish, i.e. if they have not fallen into *any of* the seven things by which the honor of each is forfeited.

What are they?

Answer.—To be satirized, to be arrested and have no pledge to release him,[e] false evidence, false character, intentionally defective binding, evading guaranteeship, to break through his pledge for anything for which he went security, to befoul his honor.

Question.—What is it that washes from a person's face (*honour*) these seven things?

Answer.—Every foulness that adheres to a person's honor, there are three things to wash off, *viz.*, soap, and water, and linen cloth. What soap, is firstly, is a confession of the misdeeds in

[a] Ir. *Fall.*

[b] Ir. *Without.*

[c] Ir. *Knot.*

[d] Ir. *Butter for him.*

[e] Ir. *Without a pledge for his face.*

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forfeited after a month, if not saved by the transgressor's depositing a new pledge, or by an offer to submit the case for legal judgment.

in mídénmai ria doínib, ocus in gell nád súiri friu aitherach. In tursci imorro, icc nech atball tri a mignimiu. Anart, penait in midenmai, rer lebor.

Ité fodlai boairech inso. Tefét cach ngrad ber sruthiu alaill.

Is iarsunn do inscanaitt graḋda inna flaiṫe.

Forus flatha .i. flaith o déis co ríg.

Cislir fuilleċta for suiḋib? A secht.

Catcat? Airi déssa, airi eċtai, aire ard, airi túsi, airi forggaill, tánaisi ríg, ocus ríg.

Cid notaisaerad? A ndéis a ndligid, caċ ae cid becc cid moor.

Cair—Caitti deis flathai? Dég dliġid comditin dana. Dichus sin cetheorai deisi do flaiṫib, Sen chomditiu thuaiṫe; a dán i tuaiṫ, im dán tuísig no tánaisi thuisig sechip dán dib; a ċeili gíalnai; a soér cheili; a ḟeinclethe; imfaebair cach giallnai eislinníu; glenomon boṫais ocus fuidrís fo a tír tabeir, ar it moo a muine maithim. Ma beith fognum diib do ḟlaithib co nómad naó, it bothaig, it fúidri; it sencleṫe iarmoṫa.

Airi desa cid ara neper?

Ar indi is na déis direnar. Nimṫa bo-airi, is dia buaib direnarsiḋi.

Caiti tothaċt aireg désa?

Deich celi leis; coic céli giallna, ocus coic saercéli. A coíc celi giallna dligiḋ biathaḋ nairċenn do cach ae. Bó cona timṫaċ, ocus colpdach firenn, ocus tri dartaidi cach gaimrid cona saimmbiud do ó .u. celi gialnai. Deich lanamna a ċorus for cuí o calaind co hinitt. Os he mac aireċ ocus aue airech, co thothacht a thigi, itir fossair ocus fuirmed ocus enncai.

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1 A '*flaith*'-*chief*.—For "forus flatha," C. 499, reads "corus flata."

the presence of people, and *giving* the pledge not to return to them again. The water now, is the payment of *compensation for* what suffered through his misdeeds. The linen cloth *is the* penance for the misdeeds, according to books.

These are the divisions of the 'bo-airechs.' Every higher grade takes precedence of the other.

It is after these, the grades of the 'flaith'-chiefs commence.

The 'forus' of a 'flaith'-chief,[1] viz., a 'flaith'-chief from a 'deis'-chief to a king.

How many subdivisions are there of these? Seven.

Which are they? 'Aire desa,' 'aire echtai,' 'aire ard,' 'aire tuisi,' 'aire forgaile,' a tanist of a king, and a king.

What ennobles them? Their 'deis'-right, the privileges of each whether small or great.

Question.—What is the 'deis'-right of a chief? The goodly right to protect his office *or rank*. There are four 'deis'-rights prescribed for 'flaith'-chiefs. The ancient protection of the people (*or territory,*) is his office in the territory, together with the office of leader or 'tanist'-leader *of the army*, whichever office it may be; *of* his 'giallna'-tenants, his 'saer'-tenants, his 'sen-cleithe'-tenants; the punishment of every imperfect service; the following of cottier tenants and 'fuidhir'-tenants which he brings upon his land, because his wealth is the greater and better. If there be service from them to 'flaith'-chiefs to nine times nine *years*, they are cottiers and 'fuidhir'-tenants; they are 'sen-cleithe'-tenants from that out.

Why is the 'aire desa'-chief so called?

Because of the fact that it is on account of his 'deis'-rights he is paid 'dire'-fine. Not so the 'bo-aire'-chief, it is in right of his cows he is paid 'dire'-fine.

What is the property of an 'aire desa'-chief?

He has ten tenants; five 'giallna'-tenants, and five 'saer'-tenants. *As to* his five 'giallna'-tenants, he is entitled to a fixed amount of food from each of them. A cow with its accompaniments, and a male 'colpach'-heifer, and three 'dartaid'-heifers, every winter, with his summer food, *are due* to him from *each of* (?) his five 'giallna'-tenants. Ten couples are his right company at feasting from the calends (*beginning of the year*) to Shrovetide. And he is the son of an 'aire,' and the grandson of an 'aire,' with the property of his house, both bed and supper and washing.[2] *He has*

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[2] *Bed and supper and washing.*—This is O'Curry's revised translation of the terms, 'ꝼoꞅꞅaıꞃ,' 'ꝼuıꞃıꞃeꝺ,' and 'ennca.ı.'

CRITH GABHLACH.

Tech .uii. traiged .xx. it, co nairċai coir, ocht nimmdaí cona tinchur ann; escrai, cairi, cona lán lestrai thigi aireċ, im dabaig. Imdich dligiud a cheiliu cintaib coir cáin, cairddi, conneoch a tallen. Lepaid daltu comaltu, fiur, mnai, macc, ingin. Ata suidiu for sobus iar corus ḟine ocus tuaiṫi ocus flaṫa ocus eclasa ocus rechtgai ocus chairddi. Sé cumala a taurcreicc ó flaiṫ. Dí bai cona thímtachtai bés a thiġi i ngaim, cona saimbiud. Ech sliasta comaḋas, co srian arggait. Ceṫar ech lais co nglas srianaib, ocus clotdelgg nungga. Cetmuinter dligtech comchenuil comdas fon oén timṫach; .x. seoít a enechclann. Immustoing, is naidm, is rath, is aitiri, is feichem, is fiaḋnaise friú. Seisser a dam i tuaith. Imb dó do gres co tarsund saillti. Issi flaiṫ mucleithe insin. Sessir do for folach. Fossugaḋ seissir. Imb ocus sall do i ndissi, i trissi, i coicid, i nomaid, i ndechmaid, i ndomnach.

Cid do ber na .x. seotú do diríu in nfir sin?

Cóic seoit a ṫige fadessin cetamus; ocus a cóic as in coic tíġe. A did ngiallna cen ní. Ascria no astlia a airechus di ḟoltaib beccaib ocus moraim, ar ná día recht raltar.

Aire ectai cid ara neper? Ar indi as naire cóicir facabar fri denum néchta i cairddiu co cenn mís, di digal enechruccai tuaiṫi dia ndéntar dédenguin duine. Mani dernat co cenn mís, do tiagat for cairddi, nallenat a lepthai chucaí anall. Cia rongonat doíne din chairddiu in coiciur chetnai, as compen airi eċta tara cenn. Na téit tír na humaċ airi ind, aċht lestra, loġa bo. Beirṫius dan dia nairitiuth sechtair co cenn cairdi ar

a house of twenty-seven feet with a proper backhouse; *he has* eight beds with their furniture in it, water vessels, a cauldron with the full complement of vessels befitting[a] an 'airech's' house, with a vat. He protects the rights of his tenants in all just suits of 'cain'-law, and 'cairde'-law, as far as he is able. *He has* beds for a foster-child, a schoolfellow, man, woman, boy, girl. He is correctly ordered in the 'corus'-law of family, and of territory, of chief, and of church, and of general law, and of 'cairde'-regulations. Six 'cumhals' is his proportionate stock from his chief. Two cows with their accompaniment is the food-rent of his house in winter, with his summer food. *He has* a riding steed becoming *his rank*, with a silver bridle. Four steeds has he *besides* with green bridles; and a precious brooch worth an ounce. *He has* a lawful suitable first wife of equal family, and with the same clothes; ten 'seds' *are* his honor-price. He makes oath, he is a binder, he is a guarantee, he is a pledge, he is a party in a suit, and a witness to that extent.[b] Six *is* his company *or suite* in the territory. He is entitled to butter at all times, with condiment of salt *meat*. He is the 'Mucleithe'-chief.[1] Six *attendants* for him *are due* in sick maintenance. *He is entitled to* support for six. Butter and salt (or fat) flesh *are to be provided* for him on second day, on third, on fifth, on ninth, on tenth, *and* on Sunday.

What is it that gives ten 'seds' 'dire'-fine of this man?

There are five 'seds' for (*in right of*) his own house firstly; and five out of the five houses. * * * Everything avails him which he purchases or which he adds to his 'airech'-ship of small property and great, provided it is not unlawfully they are acquired.

Why *is the* 'aire echta'-chief so called? Because it is as the chief of five men he is assigned to perform a deed in *a place where* interritorial regulations *exist* to the end of a month, to avenge the insult *offered* to a territory in which a person was lately killed. If they do not perform it before[c] the end of a month, they come under the interritorial regulations, so that their beds follow them not over. Should *they* have killed a person under the interritorial regulations, *as to* the same five men, the 'aire echta'-chief pays for them. Land or ridge goes not for this, but only vessels, the value of a cow. They are now carried to be fed

[a] Ir. *Of.*

[b] Ir. *For them.*

[c] Ir. *Till.*

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[1] '*Mucleithe*'-*chief.* That is (says Professor O'Curry), a man whose mother was the daughter of a 'Sen-cleithe' (old stander), and consequently of inferior degree.

[2] *They are acquired.*—This is Professor O'Curry's second and revised translation of this very obscure passage.

lín a chomairge ocus a charat. A dam ocus a folach amail airig ndésai dligthir.

Aire ard cid ara neper? Ar indi as nardu oldás aire désa ocus asne dotfét. Fiche ceili léis; .x. ceile giallna ocus .x. saerceili. A deich ceili gialnai, di bai cona timthug do huaídib, ocus tri colpachdai firinn, ocus coic dartaidi caich gaimrid, cona sammbiud. Arcuirether a céliu cur ocus chairddiu cach ngrad as it nislíu biid dó i ceilsine. Cóic seot .x. log a enech. Immustoing, is naídm, is raith, is aitiri, is fechem, is fiadnairi friú.

Cid di beir cóic seotu .x. do aineclann don firso?

Cóic seot dó cédus, ar tothaċt i tigi fadesin; set ceċa céili dia ndlig biathaḋ nairċenncai. Morseser a daim ind a tuaith, coic fir foleith. Imb co tarsunn doib dogress. Morsesiur for foluċ. Fossugud morsesir. Sall ocus imb do co tassunn i ndissi, i trissi, i cóicid, [i nomaid], i ndechmaid, i ndomnach. .Uii. cumala a thauracreic. Teoir bai cona timthaċ bés a taigi. .Xx. lanamain a córus for cui o calaind co init.

Airi túisi ced ari neper? Ar indi is toisech a ciniul, ocus dofét airi nardd. .Uii. ceili .xx. lasuidi, cóic ceili .x. gíalna, da soercéli .x. lais. A chéili gialna, cetheoir bai cona timthuch do húadaib, ocus .u. colpacha firinn, ocus sé dairtidi cach gaimrid, conid sámbiud. Ocht cumala a thaurcreic ó ríg. Cetheoir bai cona timtaċ bés a taigi. Ochtar a dám ina tuaith; seisiur fóleithi. Imb co tassunn do do gres. Ochtar for foluch, fossuġud ochtair. Imb do cotarsunn, ocus coirm

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[1] '*Aire ard*'-chief.—That is the "high 'aire.'"

[2] *He binds his tenants.*—That is, he makes, or confirms, their engagements and bargains.

[3] *His half company.*—On this Professor O'Curry remarks—"Every gentleman, according to his rank, was entitled to entertainment for himself and his prescribed company for one night in any house in the territory. Were he to stay longer, he could keep but half his company, and one, two, &c., in addition according to rule.

outside to the end of the 'cairde'-regulations *according* to the number of their dependents and friends. His company and his sick-maintenance *are* by law like those of the 'aire desa.'

Why is the 'aire ard'-chief[1] so called? Because of the fact that he is higher than the 'aire desa' and it is him he precedes. Twenty tenants has he; ten 'giallna'-tenants, and ten 'saer'-tenants. His ten 'giallna'-tenants are bound to give him[a] two cows with their accompaniment and three male 'colpach'-heifers and five 'dartaid'-heifers every winter, together with his summer-food. He binds his tenants as to the engagements and 'cairde'-regulations of every lower grade which he has in tenancy. Fifteen 'seds' is his honor-price. He is an oath, a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent.

[a] Ir. *To him from them.*

What gives this man fifteen 'seds' as his honor-price?

Five 'seds' *are due* for him, firstly for the property of his own house; a 'sed' for every tenant from whom he is entitled to stipulated feeding. Seven is his *full* company in his territory, five men his half *company.*[3] Butter with salt is always *provided* for them. Seven *are his* attendance in sick-maintenance. The maintenance of seven *is due to him.* Salt (or fat) meat and butter with salt *are supplied* to him on second day, on third, on fifth, on ninth, on tenth, *and* on Sundays. Seven 'cumhals' is his proportionate stock. Three cows with their accompaniment is the food-rent of his house. Twenty couples *are* his right on a feasting ('*coshering*') from Calends to Shrovetide.

The 'aire tuisi'-chief why *is he* so called? Because his race has precedence and he takes precedence of the 'aire ard'-chief. He has twenty-seven tenants, fifteen 'giallna'-tenants and twelve 'saer'-tenants. *As to* his 'giallna'-tenants, four cows with their accompaniment *are due* to him from them, and five male 'colpach'-heifers and six 'dartaid'-heifers every winter, together with his summer food. Eight 'cumhals' is his proportionate stock from a king. Four cows with their accompaniment are the food-rent of his house. Eight is his company in his territory; six his half company. Butter with salt is *due* to him at all times. Eight *attendants* upon sick-maintenance *are due* to

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Vide, C. 1528. In his first translation he seemed to consider 'ꝼoleıꞇh' as equivalent to 'ꝼoꞃꝼleḋ,' and explained it as a 'feast to which the 'aire' was invited outside his own territory.' In C. 73–76, the word occurs in connexion with the term 'airecht,' a 'court' or 'assembly,' and is explained as meaning 'a court that is by itself (apart) scrutinizing what is right.' "

no ass, ar it gella, i ndiss, i trissi, i cóicid [i nomaid], ndechmaid, i ndomnach. Fiċi seot a eneclann. Immustoing, is naidm, is raith, is aitiri, is fechem, is fiadnaisi friú. At comren ma tacra, cen airech cen airlicud. Tricha lanamna aice for cái ó calaind co hinit; ar is a lín biadta bís lín for cái. Noi traiged .xx. a téch; a nói .x. a airchai. Ocht nimdai isin tiġ, cona nog tincar tigi airig túisi, im sé brothracha cona córus tincair itir corcailli ocus gaimniu suidi. Sretha córai isin tiġ; airobor cach méit, ocus iarn cach gnima, ocus huma lestrai im chairi i talla bóin co tinne. Céili coem[t]eċtai lais, i séor rathaib ríg. Da echsrían .x. im [s]rian noir, alaili arggait. Ní aíssc do draetli, milchu, laechraid, orcca, lía a ben. Bithi acced cecha laubrai, la arathar cona óg corus dligid. Da ċapal do for tsed. Cetmuinter co córus lán recta lanamna comceniuil. Combi lan congnam i tuaiṫ, do aídbdenaib, do noilleċaib, do ġill, do giall do cairdíu tar cenn ciniuil tar crich, ocus i tech flaṫa. Arneat córus isráith a athar ocus a senathar. Documbaig a slan ara ḟorneirt. Fortoing for grad arid nísliu, ocus fosernnat a nóillig.

Aire forggaill cid ara nepar? Ar is he fortgella for na grada do ruirmisem, nach airm inda tochrathar imim sena, huaire as nuaiss a febus indata a celi. Cethraċa céili la suide; fichi celí giallna, ocus fiċi soerċéili. A fichi gialnai, coic bai cona tímtuġ do huadaib, ocus sé colpdaiġe firinn, ocus noi

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[1] *Without delay.*—The Irish 'cen airech' might also mean, "without any one having to pay them for him."

[2] *Thirty couples.* —This does not hold good here. The number of his tenants is 27, and his number on the 'coshering' or visitation feeding should be the same.

him, *and* the maintenance of eight. Butter with salt *is due* to him, and ale or milk, for which a pledge has been given, on second day, on third, on fifth, on ninth, on tenth, *and* on Sunday. Twenty 'seds' *is* his honor-price. He is an oath, he is a binder, he is a guarantee, he is a pledge, he is a party to a suit, and a witness to that extent. He pays, if he is sued, without delay,[1] and without borrowing. Thirty couples[2] he has on a feasting (*coshering*) from the Calends to Shrovetide; for it is as the number of those fed by him his number upon a feasting is. Twenty-nine feet *are the dimensions of* his house; nineteen feet *of* his back-house (*kitchen or larder*). Eight beds *are* in the house, with their proper furniture, *as required* for the house of an 'aire tuisi'-chief, with six couches and[a] their proper furniture, both[b] pillows and sitting skins.[3] Proper ranges *are* in the house, yew vessels[4] of every size, and iron for every work, and bronze vessels, together with a boiler in which a cow and a hog will fit. He has a companion tenant in *receipt of* 'saer' stock from a king. He has twelve bridle-steeds, with a golden bridle, *and* another of silver. It is no disgrace (or trespass) to him *to have* a pet hog, a greyhound, a calf, a lapdog with his wife. He has implements for every kind of work, with *the implements for* ploughing, with all things that lawfully appertain to them. He has two horses upon the road. He has a first wife in the full propriety of the law of marriage, *one* of equal family (or race) with himself. So that he has full assistance in the territory as regards prosecutors, swearers, pledges, hostages *to be given* in *cases of* interterritorial regulations, for (*on account of*) his family (*or tribe*) beyond the territory, and into the house of a chief. He makes (*assists at making*) 'corus'-arrangements in the 'raith'-right of his father and grandfather. He recovers their guarantee by his own power. He swears for the grades that are lower than himself, and he dissolves (or arranges) their oaths.

[a] Ir. *With.*

[b] Ir. *Between.*

The 'aire forgaill'-chief, why so named? Because it is he that testifies to *the character of* the grades we have enumerated, in every case in which denial *of a charge* is sought, because his quality is superior to that of his companions (*brother 'aires'*). He has forty tenants; twenty 'giallna'-tenants, and twenty 'saer'-tenants. He has five cows with their accompaniment from his twenty 'giallna'-tenants, and six male 'colpach'-heifers, and nine 'dartaid'-heifers every winter, together

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[3] *Sitting skins.*—That is (Professor O'Curry remarks) "skins stuffed with feathers."

[4] *Yew vessels.*—For 'aiꞃoboꞃ' of the text, C. 503, reads 'aꞃıboꞃ.'

ndairtaide ceċ gaimrid cona sammbiud. Coic seot déac a enechlann. Immustoing, is naidm, is raṫ, is aitiri, is fechem, is fiadnairi friu. Ferṫos cen aireċ cen airlicud cia thaccrai. Noi cumala a thaurcreicc o mar flaiṫ. Cóic bai cona thimtuġ bés a thiġe. Nonbur a dám inna tuaṫ; morsesser fo lethe imm do co tarson, ocus saill, ocus cuirm no ass, ar it gellai, i ndissi, i trissi, i coiccid, in nomad, i ndeċmaid, i ndomnach. Triċa traiged a teċ .xx. traiged a irċai. A sreaṫai tiġe, a folud a cleṫe, a ec[h]srein, a comorar caċ raithe, a cetmuinterus a corus dligid.

tuaṫa uile do · ḟóġaḋ gan cosnaṁ fairir

Tanaisi rig ced ara neper? Ar indí frisaicci tuath huili do rigiu cen cosnum friss. Coic sencleṫhe forcraid laiss sech airig forggaill. Dechnenbur a dam i tuaiṫ, oċtar foleiṫi, dechnenbur fo[r] folach, co cetnu ċórus; co nínnrucus cleiṫe, collín eochraide, co comorar cec raithe, co cetmuinterus dligiḋ. Dech cumalai a thaurcrecc; sé bai bés a ṫige. Triċa set a enechlann. Immustoing, is naidm, is raith, is aitiri, is fechem, is fiadnaise friu. Ferthos cen aireċ, cen airluccud, cia ṫacrai.

aċ ḃ-ḟuil
ingear
ir?

Ri cid ara neper? Ar indí riges chumaċtui cunnriġ for a ṫuatai.

Cair—Cislir fodlai for rigaib? Teoir fodla. Cateat? Rii benn, rí buidein, rí bunaid caċ cinn. Rií benn cetamus, ced ara neper? Is he rí tuathi insin las mbiat .uii. ngraid féne cona fosodlaib i céilsine; ar it he benna flaṫa do ruirmisium. .Uii. cumalai a enechlann, cumal ceċ primgraid bis fo a ċumaċtu. Imustoing, is naidm, is raṫ, is aitiri, is fechem, is fiadnuise friu. Ferṫos cen aireċ cen arliccud, cia tacra. Da fer déc a dam na tuaith; nonbur, foleithi. Dechenbur for folach, for a ċorus biata. Di cumal .x. a taurcreicc; se ba bés a thige.

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[1] *The power of binding over his people.*—O'Curry in his second translation renders this clause "The power of castigation over his territories."

[2] *A king of hills.*—The word 'beann' means "peaks, hills, horns, spears." It might mean here hills on which meetings or assemblies were held. *Vide* C. 220 where the 'Crith gabhlach' is referred to as a part of the 'Senchus Mor,' and wher several explanations of 'Ri beand' are given.

with his summer-food. Fifteen 'seds' is his honor-price. He makes oath, he is a binder, a pledge, a party to a suit, and a witness to that extent. He pays when sued, without any one having to pay for him, without borrowing. Nine 'cumhals' are his proportionate stock from a great chief. Five cows with their accompaniment is the food-rent of his house. Nine is his company in his territory; seven his half *company*. *He is entitled to* butter with salt, and salt meat, and ale or milk, for they are given to him, on second day, on third, on fifth, on ninth, on tenth, on Sunday. Thirty feet is *the length* of his house, twenty feet that of his backhouse. *He has* his house furniture in small things, or large things, his bridle steeds, his implements for every quarter, his first wife according to the propriety of law.

The 'tanist' of a king, why is he so called? Because he has a right to rule the whole territory without opposition to him. He has five 'sencleithe'-tenants more than the 'aire forgaill'-chief. Ten is his company in the territory, eight his half *company*, ten *attendants* in case of sick maintenance, according to former regulations; with fitness *of furniture* in large articles, with his full complement of horses, with the implements for work of each quarter *of the year*, with a lawful first wife. Ten 'cumhals' is his proportionate stock; six cows are the food-rent of his house. Thirty 'seds' are his honor-price. He makes oath, is a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent. He pays without any one paying for him, without borrowing, if he is sued.

A king, why so called? Because he possesses the power of binding over his people.[1]

Question.—How many are the divisions of kings? Three divisions. Which are they? A king of hills[2] (or horns), a king of companies, a king the source (or foundation) of every head (chief). The king of hills first, why so called? He is the king of a territory (or tribe) who has the seven grades of Feine, with their divisions as tenants; for they are the hills of a chief which we have mentioned. Seven 'cumhals' is his honor-price; a 'cumhal' for every chief grade that is under his power. He makes oath, he is a binder, he is a guarantee, he is a pledge, he is a party to a suit, and a witness to that extent. He pays without any one paying for him, without borrowing, when sued. Twelve men are his company in his territory; nine are his half *company*. Ten *are his attendants* on sick maintenance, with proper feeding. Twelve 'cumhals' are his proportionate stock; six cows the food-rent of his house.

CRITH GABLACH.

Rí buiden, cid ara neperrside? Ar mó as nairrdas da buiden, no teora mbuiden. Secht .c. catha buidne. Is e ri teora tuath, no cetheora tuath immurgu. Ocht cumala a enechclann. Nairre do fosla ilgalla, a dó no a trí, no cethair, amal arcain [fenechas].

Rí mórtuatha mescraid recht.
Na demnigid mert mai.
Dligid cumal for a recht
Do a derba dín.

Cethri fichit fer a dám ina tuaith, da fer déacc folescha. Coic cumala déac a thuarasdal: ocht mbai bés a tige. Is diforaig ri buiden. Ocht cumala ar agellat a folach. ocht cumala a enechlann. Imartoing is nadm, is raith, is aitire, is fechem, is fiadnaise. Ferthar cen airec cen urlicud, cia thacraid.

Rí bunaid cech cinn, trio, cid ara neper?

Ar is fo cumachta a chonnrig bíid cech cenn dia trimargaid a commend: hirerre fosaig cech cenn bes essa inní bes écressa. Is e ri ruirech immurgu; da .uii. cumal a enechlannn: hirerre inbiice ri ocus tuatha fo cumachta ocus a chandorius. Imartaing da .uii. cumala. Is nadm, is raith, is aitire, is fechem, is fiadnaise fria. Tricha a dám ina tuaith: secht .c. folechte: doconnarrig la cach. Dirfolaig ri ruirech, ocus ri eicis, ocus bruigaid inbiathaib tuaithe: leth folach cech grada do a macc dligthech, do a muin: ar is leth cech dligthig, cethramaid cach indligthig. Datamus a folach a mmaib macc no céli. Rechtaire tectaire folongthar leth folach a flatha. Gaire cumma la cumbíb a ngnimo a folach fo a inbiachad la flaith.

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[1] *Not to go on sick maintenance.*—That is (says Professor O'Curry) if he is wounded he is not carried to the house of the man who inflicted the wound. The expense of his maintenance is paid him in his own house.

[2] *Seventeen.*—The MS. reads seven hundred (.uii. céc), but from the analogy of the other cases treated of, it is plain that the scribe must have written in mistake céc a 'hundred,' for 'déc,' ten.

A king of companies, why is he so called? Because of the fact that he is leader of two companies, or three companies. *There are* seven hundred in each company. He is the king of three territories, or four territories then. Eight 'cumhals' is his honor-price. For he takes many hostages—two, or three, or four, as it (the 'Fenechus'-law) says.

> "The king of Michuairt who drinks but lawfully,
> Whose intellect, is not obscure by inebriety,
> Is entitled to a 'cumhal' over seven,
> To *be paid* him as the 'dire'-fine of his rank."

Four score men is his company in his territory, twelve men are his half *company*. Fifteen 'cumhals' is his proportionate stock; eight cows are the food-rent of his house. A king of companies is not to go on sick maintenance.[a][1] Eight 'cumhals' are given him in lieu of sick maintenance; eight 'cumhals' *are* his honor-price. He makes oath, he is a binder, he is a guarantee, he is a pledge, he is a party to a suit, and a witness. He pays without any one paying for him, without borrowing, if he is sued.

[a] Ir. *Not maintainable.*

A king, the origin of every chief,[b] why so named?

[b] Ir. *Head.*

Because of the fact that it is under the power of his control every chief is who cannot be corrected by his *own* lord; for every chief who is more powerful takes precedence of him who is less powerful. He is the king of kings then; twice seven 'cumhals' are his honor price; for kings and peoples are under his power and his correction. He makes oath *to the value of* twice seven 'cumhals.' He is a binder, a guarantee, a pledge, a party to a suit, and a witness to that extent. Thirty is his company in his territory; seventeen[2] his half *company*. He is not coerced by any one. A king of kings, and a poet-king, and a 'brughaidh,' are not to go on sick maintenance among the grades of the people. Half the sick maintenance of *a man of* every grade *is due* for his lawful son, *and* for his wife; for it is half that *is due* for every lawful *person*, one fourth for every unlawful *one*. The wives of mercenary soldiers[3] have sick maintenance in right of their sons or husbands. Stewards, *and* couriers are sustained with half the maintenance of their chief. They arrange that their share in the maintenance corresponds with their sustenance by their chief.

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[3] *Mercenary soldiers.*—Cormac's Glossary derives the term 'amoꞅ' from 'amhsos,' 'restless,' because he (the 'amos') is never at rest or stationary, but going from place to place, or from one lord to another.

CRITH GABHLACH.

Cach dán do gni aicdi flatha no ecalsa folongar leṫ folach a míad caich ara aicdi do gní. Folach cech graid a eclais fo comgrad tuaiti. Caċ mathair lía mac for folaċ dia marathar. Ité fodlai flaṫa do ruirmisem imaberat fullechtai flaithemnais a somoínib sét.

Cair—Ciade as sruthiu, in rii fa thuaṫ? Is sruthíu in ríg. Cia do comsruithe? Ar is tuaṫ oirdnither rii, ni ríg oirdnither tuaith.

Cateat folaíd ríg do tuaith notnoirdnither?

Nóaill tar a cenn fri ríg ocus crichí. Is toing dib, fortoing huadib .uii. cumala. Téit i combreith, i comfiadnaisi fri riġ tar cenn a thuaithi. Dligit conda brithemain fírion dóib. Dliġit gell tar a cenn. Dligit foluch amail folongar. Dligit nad ngellai oenach forru, nad tuinmell tuath ule acd comaithe.

Teora tomaltu ata sorai do riġ for a tuaitha. Oenach, ocus dal do cundrech, ocus tocomrac do crich. Is tuaithi cammae·comarggud oenaiġ. Is riġ ní gellus ar oenoch; acht rop cóir ní gellus.

Cair—Cislir ata sorai do riġ do giull for a tuaṫa? A tri.

Cateat? Gell sloġad, gell rechtge, gell cairddi, ar it lieisa tuaithi huli insin.

Cair—Cislir slogad ata choorai do riġ do giull for a tuaitha? A trí.

Cateat? Slogaḋ hi crich a medon fri indnaide slogid thairsi; slogud co hor crichi fri forcsin fir ocus dligid, conid roib cath no cairdde; slogud tar crich fri tuaiṫ asatlúi.

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[1] *On behalf of the territory.*—The Irish may also mean 'at the border of the territory.' It was (says O'Curry) the ancient custom in Ireland, when a new

CRITH GABHLACH.

Every artisan who makes the manufactures of a chief, or a church is sustained with half maintenance according to the rank of each person whose manufactures he makes. The maintenance of every grade in the church is the same as that of its co-grade in the laity. Every mother goes with her son upon sick maintenance if she be living. These are the divisions of chieftainship which we have enumerated among whom distinctions of chieftainship are produced from their rents in 'seds.

Question.—Which is the higher, the king or the people? The king is higher. What makes him higher? Because it is the people that ordain the king, not the king that ordains the people.

What are the benefits of a king to the people that ordain him?

He swears for them to the king on behalf of the territory.[1] He denies (or makes oath) on their behalf, he proves for them *to the extent of* seven 'cumhals.' He goes into co-judgment, into co-evidence with the king for his people. They are entitled to righteous judges for them. They are entitled to a pledge on their part. They are entitled to sustenance as they sustain. They are entitled that he does not pledge them for a fair, that he assemble not the whole territory, but the neighbours (or co-occupants).

To three spendings is the king entitled from his people;[a] a fair, and a meeting for correction,[2] and accompaniment to the boundary. It is the people in common that assemble a fair. It is the king that pledges them to the fair; but he pledges them to what is proper.

[a] Ir. *Are proper.*

Question.—How many things are proper for a king to pledge his people to? Three.

Which are they? A pledge for hosting, a pledge for right, a pledge for interterritorial regulations, for all these things are for the good of the people (or territory).

Question.—How many hostings is it right for a king to pledge his territory to? Three.

Which are they? A hosting within the territory for conveying another hosting over it; a hosting to the border of the territory to determine truth and right, so that it may be battle or relations of peace;[b] a hosting over the boundary against a territory that has revolted.

[b] Ir. '*Cairdde.*'

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king succeeded, that he went all over the province or kingdom, and received the allegiance and the hostages of all the minor kings, and chiefs, and people.

[2] *A meeting for correction.*—The Irish thus translated may also mean "a meeting for making a contract."

Ataat dan, ceitheorai rechtgi gellas rig for a tuathai. Cateat? Rechtgai fenechais cétamus. It tuatha doo egínset. Is rig no de dluthai na teorai rechtgai eile. is rí do de immairgg. Rechtga iar cach tomadommaim forru. co ro dlúthat a tuatha iarom ar namma conbba dóib; ocus rechtga iar ndounebai; ocus rechtga rig. amail rongab rechtga rig caisil la mumain. Ar ataat teorai rechtgai ata córai do rig do giull for a tuatha; rechtgai do indarbbu echtarceníul .i. fri saxanu, ocus rechtgai fri tuar toraid, ocus recht cretteme adannai, amail ronngab recht adamnain. Ite folaid fír flaithemon inso for a tuatha, ocus ni is forge goi na écin na forniurt. Rop slan etarggairech fírion itir lobru ocus triunu.

Ataat dan a tri aili todacrat do ríg. Rop fer cach leithi lan dligid. Rop fer frecmaircc firr. Rop forus ammnet.

Ataat cethair toraic do berat dire naithig do rig. Cateat? A thoraic for teora longgaib athich; longg forcca, longg famtaigi, longg rammai, ar cén mbis foraib is aiṫech; a ṫoraicc a aenur, ar ni cosus do ríg imtheċt a aenur. Iseḋ laa insin fortoigg ben a aonur am macc for rig, laa na tabir neich a test aċt namma.

Ataa mi nad nimtéċt rí aċt ceṫrar. Cia ceṫrar? Rí, ocus brithem, ocus dias i manchune. Cia mí in nimtet in taċt sin? Mí síltai. A guin inna dícúlaid, dna, oc teched arroi do ber diri naithaig dó. Aċt mad tréo do cói, ar is amlaid só ón direnatar dícúlaid rig as a inchaib.

Ata, dna, secht mónail i cosus ríg .i. domnach do ól corma, ar ni flaith teċta nad ingella laiṫ ar cach ndoiṁnich; luan do breithemnas, do choccertad tuath; máirt oic fidchill; cétuín do déicsiu milchoin oic toifonn; taradaín do lánamnas; aín diden do rethaib ech; saṫarn do brethaib.

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[1] *Sowing of seed.*—When his subjects (under-kings) were fighting and neglecting to sow the seed, he compelled them to change their course. *Vide*, O'D., 1778, *et seq.*

CRITH GABHLACH.

There are now four rights which a king pledges his people to observe.[a] What are they? The rights of 'Fenechus'-law firstly. It is the people that proclaim it. It is the king that proclaims the other three rights, *and* it is the king that enforces them. A right after they have been defeated in battle,[b] and he consolidates his people afterwards so that they be not broken up; and a right after a mortality; and the right of a king, as is found the right of the king of Cashel in Munster. For there are three rights which it is proper for a king to pledge his people to: a right to *help him to* drive out foreign races, i.e. against the Saxons, and a right for the sowing of seed,[1] and a right of lighting up religion, such as is found in the right (or law) of Adamnan.[2] These are the rights (*claims*) which a just sovereign has upon his peoples, and he exercises not falsehood, nor force, nor oppressive might. He is perfectly recognisant and righteous to *them all* both weak and strong.

[a] Ir. *Upon his people.*

[b] Ir. *After a battle has been broken upon them.*

There are now three other things required from a king. He must be a man of full lawfulness in all respects. He must be a man that is consulted for knowledge. He must be learned and calm.

There are four actions (*descending from his dignity*) that bring the 'dire'-fine of a plebeian to a king. What are they? His action upon the three handles belonging to a plebeian; the handle of a clod-mallet/ the handle of a shovel/ the handle of a spade/ for as long as he is at them he is a plebeian; his action in going alone/ for it is not proper for a king to travel alone; this might be the day upon which a woman alone (*without any witnesses*) might swear her child upon a king, a day upon which no one could give testimony but *herself* alone.

fifth action ?

There is a month in which a king goes forth four only. What four? A king, a judge, and two in attendance. In what month does he go forth in that manner? The month of seed-sowing. To get wounded in the back, now, in retreating from a battle field, gives him the 'dire'-fine of a plebeian./ But if it is through him *backward* it (*the weapon*) has passed, *it is not so*, for 'dire'-fine is paid for the back of a king in right of his front.

There are, now, seven occupations in the 'corus'-law of a king, viz.: Sunday for drinking ale, for he is not a lawful chief who does not distribute ale every Sunday; Monday for judgment, for the adjustment of the people; Tuesday at chess; Wednesday seeing greyhounds coursing; Thursday at marriage duties; Friday at horse racing; Saturday at giving judgments.

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[2] *The law of Adamnan.*—This is a curious law which had for its object the releasing of women from the obligation of going out to battle.

CRITH GABHLACH.

Atáat tri toichnedai fris ná ruide corad (no tocrad) ríg, cia béth rí imchoire iarn ndul triitt; toichníud iar nélaud aige dia folaid, acht ní ro fúit[er] oilcc dia guin; toichniuch iar netiuċ, ar is mó dorlí oldáas aón, huare dorlíi lóg a enech.

Cair--Cia is cóir ocus is teċtai do denum bíid ríġ?

Fergnío tri forggaib?

Cateat sidi? Fer fororggaib; forggab for a comlonn co trégda in fer tria sciath; fer gaibes fer beogabail, ocus aritngaib i rói. Fer benas dam oen bemmim nad fuíóle; fer forgaib cimbid cen aurlúd; fer forgaib eclann ar belaib sluaiġ co tuit di aen forggub.

Atáat dno tri˙aurrach nad accladat rig; eirrech ar tuaith aridlúi o conindruid; errech in tan mbís rí a nechtair leis inna thuaiṫ fadeisin mani roa duini; eirrech difeiscclabrai i ndithraib iar tuidecht tar crich. Adgenedar huád do cach besa cethrai na dá neirrech ndedenach nad aithgeinethar hi tuisech act mad indruth nindligthech.

Ċati chorus dond ríg bís hi forus dogress ar chinn a tuaiṫi .Uii. fichit traiged di traigtib innraiccib mett hi dúne cach leith; .uii. traigiḋ teiget a thalmatha; da traig .x. dna, a domna. Is ann is rig an tan dot nímcellat drechta gialna. Cati in drecht gialnai? Da traig .x. lethet a bél, ocus a domnai, ocus i fot fri dún. Tricho traiġi a fot i nechtair. Cleírig do denum itigi a thigi. Carr cóil, carr óine cech fir dia rogbai. Ind flaith bachoild ní dlig dénum a dúni aċt a thech namma. .Uii. traigid trichot i tech. Dí immdai .x. hir rigtiġ.

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[1] *Refused.* Professor O'Curry refers here to the story of Felim Mac Crimthan and the Dalcassians.

[2] *One thrust.* The word "forgab," means sometimes 'a thrust of a spear,' sometimes 'arresting.

There are three fastings which bring no offence to a king; *fasting* when[a] the king be at (*depending on*) a boiler which has leaked; fasting after part of his supplies has been withheld, but no men have been sent to wound him (*the defaulter*); fasting after being refused[1] *his supplies*, for it is then he is entitled to it more than any one, because he is entitled to his honor-price.

[a] Ir. *Though.*

Question.—Who is it that is a proper and lawful person to prepare the food of a king?

A man of deeds of three captures.

Which are they? A man who has made a capture; he captures in single combat in which he pierced the man through his shield; a man who captures a man by living capture, and who captures him on the battle-field; a man who fells an ox with one blow without leaving *any part uncut*[2]; a man who captures a criminal without having been ordered; a man who captures a champion in the front of an army, so that he falls by one thrust.[3]

There are now three 'aurrach'-taxes[4] which a king does not pay (*is not held responsible for*); an 'errech'-tax of a people (*or territory*) that has revolted, while he is reducing it; an 'errech'-tax when he has an extern king with him in his own territory, if some person does not relieve him; an 'errech'-tax of dry cows in a waste, after having come over the boundary. He restores the two last 'errech'-taxes (*levies*) to each person whose cattle they are; he does not restore in the first case unless it be an unlawful inroad.

What is the 'corus'-law as to the king who is always resident at the head of his people? Seven score feet, of lawful feet, are the dimensions of his 'dun'-fort every way; seven feet is the thickness of its mound *at top*; twelve feet *is its thickness at* bottom. It is then only is he a king, when he is encircled by the moat of servitude. What is the moat of servitude? Twelve feet is the breadth of its mouth, and of its bottom (or depth), and its length is the same as *that of* the 'dun'-fort. Thirty feet is its length on the outside. It is clerics that make the prayers of his house. A cart-load of firewood, and a cart-load of rushes to each man who so prayed. The 'pilgrim's staff'-chief[5] is not entitled to have his 'dun'-fort built for him, but only his house. Seven feet and thirty is *the length of* his house. Twelve beds *are* in the royal house.

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[4] *'Aurrach'-taxes.*—That is, extraordinary taxes, or levies, or exactions. 'errech' and 'aurrach' mean the same thing.

[5] *The pilgrim's staff-chief.*—That is, the chief or king who goes away on a pilgrimage as an absentee.

Co sernar tech rig? Amuis ríg hi foitsiu.

Cair—Cisné amuis ata córai la riġ?

Fer soerus di crií, fer soerus di gabail, di cimmidecht; fer soerus di fognum, di doerbothus, di doer-fuidres. Ní bí occai fer ḟoerus a rói, ar nach roimre, no ar nach roimre, no ar nach rubai, a soethaib ar ċonnalbai.

Cia lin di amsaib as ċoir la riġ? Cethrar .i. rigṫiġ, ocus seirthith, ocus da taebtaid, ite a nanmann. Ite ata chorai do buith i foítsiu taige ríg ara choemtecht a taíġ immach, imaig i tech. Fer gill do gialdnaib friu aníar.

Cia miad sidi? Fer las mbí tir .uii. cumal, for bí a ḟetaib itir flaith ocus andoín, ocus choris feni. Teċtai fri suḋi iníar. Daama iarsuḋiu. Eccis iarsuḋib; crutti iarsuḋi; cuslennaiġ, cornairi, clesamnaig a nairtiur ḟoitsi. Is inn leṫ eliu a fochlu fénnid. Fergnío fri forngairi ndoris. A charr ar béluib cechtir naei do grés fri cumascc churmṫigi. Soércéli na flaṫa friu aníar. Oes insin bid coemtecht do flaiṫ. Géil iarsudiu, brithem iarsudiu. I ben no a brithem frisuidi inníar; ri iarsuidiu. Gel dithma i nglasib i nairtiur fochlai.

Rii tuaiṫe, di feraib déacc do lessaib tuaithe follong tuath fadessin fria taisceḋi. Da fer deac dna, dám espuic di lesib ecelsi ocus tuaithi imtéit cadesin. Ar ni racu tuath dámrad rig ocus espuic diam di gress forngelat. Dám suad dna, di ferib ḋéac.

Cia de issruithiu, in ríg fa espuc? Issruithiu espuc, huairi airnéraig riġ fo bith creitme. Tuarguib espuc, dno, a glun ria ríg.

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[1] *In the hands of the chief and the 'andoin' church.*—That is, pledged to them for the good conduct of himself and his family. The phrase, however, might mean, "whose paths are good between the chief and the 'andoin'-church, and his lawful family adjustments."

What is the arrangement of a king's house? The body-guard of the king are on the south.

Question. Who are the body-guard that a king ought to have?

A man whom he frees from a dungeon, a man whom he frees from the gallows, from condemnation; a man whom he frees from servitude, from 'daer-bothus'-ship, and from 'daer-fuidher'-ship. He has not a man whom he saves on the battle-field, lest he may lay hands on him, or kill him, out of devotion *to his own chief or people.*

How many body-guardsmen are proper for a king? Four, viz., a front man, and a rere man, and two sides men, these are their names. It is they that are proper to be in the southern part of a king's house to attend on him in going out of the house, *and* from without into the house. A pledged man of the pledged men (*hostages*) *is to be* with them behind.

What is his distinction? A man who has land of *the value of* seven 'cumhals,' whose property is *in the hands*[a] of the chief, and the 'andoin'-church,[1] and *for lawful observance* of the 'corus Feine'-law. He is seated by these, behind. The companies (*the king's visitors*) *are* behind these. Poets *are* behind these; harpers behind them; flute-players, horn-blowers, and jugglers *are placed* in the south-east part. In the other side *of the house* is his champion's seat. A man of deeds *is placed* to guard the door. His spear *is placed* in front of each of the *last* two perpetually against the confusion of the ale-house. The chief's 'saer'-tenants *are placed* behind these. These are the parties who are the companions of the chief. Hostages *are placed* behind these, judges behind them. His wife, or his judge *is placed* behind these; the king behind these. Unredeemed pledges (*hostages*) in locks (*locked chains*) *are placed* on the east side of the champion's seat.

As regards a king of a tribe (*or territory*), twelve men are supported by the territory on his excursions for the good of the territory. Twelve men now are the retinue of a bishop, when he travels for the good of church and territory. For a territory could not bear the retinues of a king and of a bishop if they were constantly feeding on them. The company of the doctor *in poetry, &c.*, now, is twelve men.

Which is higher, a king or a bishop? The bishop is higher, because the king stands up (*to salute him*) by reason of religion, A bishop, however, raises his knee to a king.

[a] Ir. *Between.*

CRITH GABHLACH.

It is lawful for a king to have a judge though he is himself a judge. As the 'Fenechus'-law sings—

"If he be a king, he knows
a chief's rights from the foundation;
He shall have ale paid him with food.
He shall have a brave army;
an inebriating ale-house;
the appraisement of land;
measurement by poles;
to award of 'dire'-fine;
an increase of fruits;
an increase of cattle on the land;
extension of boundaries;
a setting up of stakes;
adjustment of sub-divisions;
division among 'coarbs';
setting up of stakes;
invitation of co-occupants;
foreigners for combat and battle
are requisite for a king;
a guarantee of lawful protection for adjudication,
until the owner of property shall be known
he fulfills all *duties of* co-occupancy to which he is bound;
all promises promised:
sacks of damages he appraises;
the value of 'dire'-fine;
the 'dire'-fine of corn
from a 'dairtaid'-heifer to a 'dairt'-heifer,
up to a 'colpach'-heifer;
to five 'seds' it progresses."[1]

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[1] *It progresses.* These sentences appear to be catchwords or mnemonics, probably in some kind of verse originally. In their present state, however, it is difficult, if not impossible, to arrange them according to any regular form of Irish metre, or to make any good sense of them.

cRıch ᵹabhlach.

SEQUEL TO CRITH GABHLACH.

SEQUEL TO CRITH GABHLACH.

SEQUEL TO CRITH GABHLACH.

How many are the legitimate titles of dignity?

Answer—Twenty-six, i.e. a 'triath'-king, a king of kings, a king of territories, an 'aire forgaill'-chief, an 'aire ard'-chief, an 'aire tuise'-chief, an 'aire desa'-chief, an 'aire fine'-chief, an 'idhna'-person, an 'ansruth'-person, a 'dae'-person, a full 'flaithem'-person, a half 'flaithem'-person, a 'flaithem' of one vessel, a 'bo aire'-chief, a 'second of a bo aire'-chief, an 'uaitne'-chief, a henchman, a man who has lost his patrimony, a 'baitse'-tenant, a cow-grazer of a green, an 'oinmit'-man, a 'midhlach'-man, a 'reim'-man, a 'marsh'-man, a crumb-fox.

How many are their legal rights according to their rank in the dignity *laws*?

Answer—Nine; That it may be known to what extent each of them is confirmed *in his rights*, as regards their full number, and their smallest number, *at refections, &c.*, as regards their feeding and their 'esain,'[1] as to their wounding and their being insulted, as to their being treated with contempt and their protection violated, their exemption before and during refections;[2] as to their honor-price, and their blush-fine, and blister-fine.

How many are the things that give dignity and honor-price to every one?

Answer—Three: merit, and worthiness, and innocence. *There are* three things, too, that derogate from his proper honor to every one, i.e. misdeeds, and low profession, and non-innocence.

A 'triath,' i.e. a king, as it is said:

> "A mighty king who penetrates
> Erinn's lands from wave to wave;
> He goes round its measurement,
> So that by his hand it is guessed at."

He is entitled to be freely fed with his company, without curtailment, whatever place he goes round. He is entitled to five 'cumhals' of red gold, *and* a precious stone, for 'diguin'-trespass

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[2] *Refections.*—See, Progress of the King of Cashel when monarch of Ireland. Book of Rights, p. 30.

SEQUEL TO CRITH GABHLACH.

esain, no dia griseḋ gruad. Coic coicid erenn tremaetha a mamu uile, amail ro ċet do Concobar:

Ard mac riġ,
Ro mac Nesa,
Nenaisc iaṫu fer fene.

Ri ri .i. ri adgiallat .uii. riġ tuaṫ. Cumal caċ riġ do dia air dia esain, diatlu a dala no a cuirmtiġe, no a oenuiḋ. Dliġiḋ a saorbiathad fo lin, cin timdeiḃe. Da .uíí. cumal dia saruġuḋ, dia ésain, dia ainmed; amail isber Cormac: "Bera do rig clotaċ Coirbre log cimedu do cuṁalaiḃ cáiniḃ; co a .uíí. saiġes aithirne, icend caċa cuindsen; coimdilius dia diguin, no dia saruġuḋ, no gruaiḋe gris."

Rig tuaiṫi toimes co a .uii.; dliġiḋ dia saruġaḋ sceo gruaide, cumal inruic co a seċt samuither saerbreṫuiḃ cormaic.

Aire ard .i. forgill .i. tar cenn tuaiṫe comsáera fris a cáin ocus a cairde; ocus ni he ar do naisc congiallna, na dliged flaṫa; ocus atġuiḋetsom na tuaṫa, ocus is rig ar do naisc. Dliġiḋ a saerbiathaḋ co ruice .xxx. oc lesuguḋ tuaiṫe. Dliġiḋ .uíí. let ċumal inraice dia diguin, dia sarugud, amail isbert cormac: "Aire ard, aird n[em]e cona tuaiṫe tesairg; dliġiḋ dia sarugud sceo aiġṫe esain .uii. lana leṫ cumal ar caċ nurconn co ruice .iii."

Aire tuisi dofet fine comcenel do corig, ocus a roslabra. Dliġiḋ saorbiathaḋ .xx. in tan bis ac lesuġuḋ tuaite. Teora leṫċumala ina asain ocus ina saruġuḋ. Ut dicitur cormac: "Cain bera do cach airiġ tuisi dia saruġuḋ dia esain, teora leire leṫ cumala la diabul fuirirud cin airbernad."

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[1] *As Cormac says.*—This quotation, and most of those that follow in the present fragment, appear to be portions of some ancient poem.

against him, for 'esain'-trespass against him, or for blistering his cheek *by satire or abuse*. The five provinces of Ireland he penetrates, *receives* the submission of all, as was sung for Concobar:

"The high son of a king,
The great son of Nesa,
Has bound (*under his rule*) the lands of the 'Feine'-men."

A king of kings, i.e. a king to whom seven kings of territories owe obedience. He is entitled to[a] a 'cumhal' for each king, for satirizing him, for his 'esain,' for absenting from his assembly, or his ale-house, or his fair. He is entitled to his free maintenance with his company, without curtailment. Twice seven 'cumhals *are the fine* for violating his protection, for his 'esain,' for making him blush, as Cormac says:[1] "Adjudge thou to an illustrious king, O Coirbre, the value of a convict of beautiful 'cumhals'; to seven '*cumhals*' the head of every beautiful face *so blistered* sues, with equal right for assaulting him, or for violating his protection, or for his cheek-blistering."

The king of a territory is estimated to seven; he is entitled to it (*the fine*) for violating his protection and *the blistering* of his cheek; worthy 'cumhals' to *the number of* seven are adjudged him by the noble judgments of Cormac.

An 'aire ard'-chief, i.e. an 'aire forgaill'-chief i.e. a man who represents the territory,[b] whom they elect for that purpose, in *making* 'cain'-law and 'cairde'-law; and it is not he that binds in matters of 'giallna'-service, nor in *the matter of* the rights of the chief; and he prays the peoples, and it is a king that binds. He is entitled to his free feeding as far as thirty *of retinue* when *engaged in* benefiting[c] the territory. He is entitled to seven worthy half 'cumhals' for assaulting him, for violating his protection, as Cormac says: "An 'aire ard'-chief, an high dignatary who protects his territory; he is entitled for violating his protection, and for the 'esain' of his face, to seven full half 'cumhals' upon (*from*) every sensible person as far as three."

An 'aire tuise'-chief goes before the families of his own race to the king, and speaks for them. He is entitled to the free feeding of twenty persons when he is *engaged in* benefiting the territory. Three half 'cumhals' *are due* to him for his 'esain' and for violating his protection, ut dicitur Cormac: "Handsomely wilt thou adjudge to each 'aire tuise'-chief for violating his protection, and for insulting him, three distinct half 'cumhals' with double feeding, without diminution."

[a] Ir. *For him.*

[b] Ir. *For the.*

[c] Ir. *Improving.*

SEQUEL TO CRITH GABHLACH.

Aire desa .i. fer conae deis nathar ocus a senathar, amail atcota riam, ocus do tairchid. Dliġiḋ saerbiathaḋ deiċnebur do a tuaiṫ. Dliġiḋ cumal caċ ain co morfesiur dia sarugud no dia esain. "Aire desa dichli dia diguin dia saruġuḋ; dliġiḋ slan cumal caċ ain co morfesear la diablad fuiririud do cortaibh."

Aire fine findathar .i. fer doet fine diamb iar da seta co flaiṫ. Dliġiḋ saerbiathaḋ .ui. ir a tuaiṫ; dliġiḋ cumal caċa laime co cethrur dia sarugud, no dia esain, ut dicitur cormac: "Aire fine findathar a teċta, dia sarugud, dia tromgresaib, sceo air indliġṫiġ, sceo aiġte esain, dliġiḋ cumal caċa laime co cethrur."

Iḋna .i. fer oca mbi sochraiti do macuib berar do, ocus do braitrib combi .xxx. uit gaisgedaċ. Dliġiḋ saerbiathaḋ .u. ir oca fine. Dliġiḋ leṫ ċumal co trian dia sarugud dia esain, ut dixit cormac. "Idna andiumsaċ sloind coirpre lifeċair, cia dligid dia sarugud, sceo ai esain anfír dliġiḋ leir leṫ ċumal co tri firu; seír la diablad fuiririud, connma imċastar cormac."

Ansruth .i. fer imdith a mennut ocus a criċ. Guin duine do in caċ treimsi do ceiṫrib raithuib na bliadna. Ni bi bes uaitiu .xx. fri crich a neċtair. Saerbiathad cethrair do caċa leṫe, no gaċa cleṫe ina tuaith. Dliġiḋ trian cumaile dia sarugud, ocus dia esain; ocus dliġiḋ gaisceḋ inraic ina eneclann. "Ansruṫ an imdich a crich cetharaird, conair gaile uad, co ndliġiḋ dia esain ard cumal ceirt trian, sceo gaisceḋ ninnraic fri ruamna rús"

Dac .i. fer imerta fir ar a laire, connaċ tarted a ċom-

An 'aire desa'-chief, i.e. a man who preserves the patrimony of his father and grandfather in the same condition that he found it before him, and who accumulates. He is entitled to the free feeding of ten in the territory. He is entitled to a 'cumhal' from everyone as far as seven, for violating his protection, or for his 'esain' *as Cormac says*: "An 'aire desa'-chief thou wilt protect; for assaulting him, for violating his protection, he is entitled to a full 'cumhal' from everyone as far as seven, with double feeding, *and* with fruits."

An 'aire fine'-chief be it known; i.e. a man who leads his family when they are on their way to the chief. He is entitled to the free feeding of six in a territory; he is entitled to a 'cumhal' from every hand to four persons for violating his protection, or for his 'esain,' ut dicitur Cormac: "An 'aire fine'-chief, let his rights be known, for violating his protection for his heavy blisterings, for unlawful satire, and 'esain' of his face, he is entitled to a 'cumhal' from every hand till it reaches four persons.[a]

An 'idhna'-person, i.e. a man who has a number of sons who are born to him, and of male relatives (or brethern) to the number of thirty champions. He is entitled to the free feeding of five from his family (or tribe). He is entitled to an half 'cumhal' from each as far as three persons for violating his protection for his 'esain,' ut dixit Cormac: "An unambitious 'idna'-person; name, O'Cairpre Lifeachair what he is entitled to for violating his protection, and untrue 'esain.' He is entitled to a clear half 'cumhal' as far as three men; broth with double food, to be inspected by Cormac."

An 'ansruth'-person, i.e. a man who protects his mansion and his land. He is allowed[b] the wounding a person in each term of the four quarters of the year. He has not fewer than twenty *attendants* in an extern territory. He has free feeding for four on every side, or from every chief ('cleith') in his territory. He is entitled to a third part of a 'cumhal' for violating his protection, and for his 'esain'; and he is entitled to a trusty sword for his honor-price. "A noble 'ansruth'-person protects his territory to its four points; there is a path of valour from (*after*) him, so that he is entitled for his 'esain' to a noble 'cumhal' of a proper third part, and a trusty sword for the reddening of his face."

A 'dae'-person, i.e. a man who asserts the right of another; *or a man* who for another goes to fight his battle, when he has not

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[a] Ir. *To four.*

[b] Ir. *For him.*

SEQUEL TO CRITH GABHLACH.

lonn do fiċ a gressa cen aḋall fine aco. Dliġiḋ a saerbiathad ocus a amus o caċ leiṫe; ocus leṫ trian cumaile dia esain no dia saruġuḋ; ocus gaisceḋ no timṫaċ; Ut dicitur Cormac: "Dae ard asa frém laime luiter, combi trelam tenn. Dliġiḋ cumal lettrian fria cuinnse cuċt ara dínsem, la dith tlaċta."

Oċa sein tra, ni cumalaib a ndire, aċt a seotuib bo cethruib, no bo slabra.

Ogflaithem .i. fer tri sencleiṫe cona comorbaib teċta. Dliġiḋ saerbiathaḋ deichnebuir. Dliġiḋ .x. seotu beodile dia saruġuḋ no dia esain.

Lethflaithem .i. fer da cleithe cona comorbuib teċtaib. Dliġiḋ saerbiathad oċtair, ocus .u. seotu dia sarugad ocus esain.

Flaithem oen escra .i. fer aen cleithe cona mur ocus a comarbaib techta. Dliġiḋ saerbiathaḋ coicir, ocus .iiii. seotu beo slabra, dia esain ocus dia saruġaḋ.

Bo aire .i. fer selba bunaid, cona inud (no inniud) do tir .x. mba lais; ocus ni goin duine aċt a ló catha; ni ṫoing luiġe aċt fo aen a mbliadain. Dliġiḋ saerbiathad .iiii. a tuaith; ocus tri seotu bo slabra dia saruġuḋ, ocus a esain.

Tanuisi mbo aire; oċt mbai lais a fosus, cona inniud do tír. Dliġiḋ saerbiathaḋ triur i tuaith, ocus da seoit bo slabra ina dire.

Huaitne; fonluing ocus frisellaġar in fer .i. friseillget troiġ ocus aiḋeilgen; fer foloing eineċ gresa cin imluad fine. Dliġiḋ saerbiathad deisi, ocus boin leṫgabala. .v. seotu diasa (*sic*) saruġaḋ, dia esain.

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[1] *Sen-cleithe'-tenants.*—Literally, 'sencleithe,' means an old wattle, or as the popular phrase goes, "an old stander." He was a man who came from his natural chief to settle under another chief; and if he or his successors continued away

SEQUEL TO CRITH GABHLACH.

the help of a family. He is entitled to his free feeding and that of his soldiers, from all sides; and to half the third part of a 'cumhal' for his 'esain,' or for violating his protection; and a sword, or a cloak, ut dicitur Cormac: "A noble 'dae'-person whose root of arm is exerted, so that it becomes a firm weapon *of battle.* He is entitled to a half third part of a 'cumhal,' for the beauty of his face being contemned, together with loss of clothes (*of the offender?*)"

From these out, now, 'cumhals' are not *reckoned* as their 'dire'-fine, but 'seds' of the cow quadruped kind, or of living cow kind.

An ogflaithem-person, i.e. a man who has[a] three 'senclethe-' tenants,[1] with their lawful successors. He is entitled to free feeding for ten. He is entitled to ten 'seds' of living chattels for violating his protection, or for his 'esain."

[a] Ir. *Of.*

A 'lethflaithem'-person, i.e. a man who has[a] two 'cleithe-' tenants with their lawful successors. He is entitled to the free feeding of eight, and to five 'seds' for violating his protection, and for his 'esain.'

A 'flaithem' of one vessel, i.e. a man who has[a] one 'cleithe'-tenant with his house and his lawful successors. He is entitled to the free feeding of five *attendants*, and to four 'seds' of living cow cattle for his 'esain,' and for violating his protection.

A 'boaire'-chief, i.e. a man of original possession, with his profit, or place, having land of *the value of* ten cows; and he wounds no person but in a day of battle; he swears not an oath but once in a year. He is entitled to the free feeding of four, in a territory; and *to* three 'seds' of cow cattle for violating his protection, and for his 'esain.'

A 'second' of a 'bo aire'-chief.—He has eight cows in a house, with their place of land. He is entitled to the free feeding of three in a territory, and to two 'seds' of cow-cattle for his 'dire'-fine.

An 'uaitne'-person; the man sustains and oversees, i.e. he oversees the wretched and the poor; a man who sustains attacks on his honor[b] without the action of the family. He is entitled to free feeding for two, and a cow of the second quality. Five 'seds' *are the fine* for violating his protection, *and* for his 'esain."

[b] Ir. *Blister-fine.*

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during the time of three successive chiefs, with the knowledge of the former chief, and unclaimed by him or his successors, he or they, then became 'sencleithe' and could not go away of themselves, nor be claimed by the other.—*Vide* C., pp. 413, 1211.

SEQUEL TO CRITH GABHLACH.

Seirṫid .i. oclaċ do daġcenel, no fer forais, no mac táis
.i. do nesa do seir táisig oc tarbeċt anndail, no a ndunad; i
uair ro bo táiseċ a athair; no, daġ a cinel; no, ara ga
Dligiḋ saerbiathaḋ i tuaiṫ ocus a ben: ocus sainseirc foc
ocus colpdach ina eneclann, dia air, dia ainmed.

Na nai ngrada deidinach so ni teċtait dligeḋ dia mbreṫ
nairecus, na damrad, na dire sainruthach, mana nasta seal
no gaes no sochraite. Ni caemtheta dire di theċta, na di thi
na dochrait na hansolta, uair natat indraice naḋma i
raithe, na haitire, na naill, na fiadnaise.

Fas faiġde .i. fer ro creca a déis, ocus a ferann, ocus
selb, ocus na techta so tuaith co leir na cleite, ocus
sreisce cuile caich; ocus nitat diles dodcois fri galar
srepaid; ocus is fas dno, cia foiġe, mana gata, no ma
creca a enech aire am[ail]. Is fas do dno, a faithce fri
galar ocus a repaiḋ mana tabra neċ ní dó ar dia. Is f
dno, a saire, ocus a dire, ocus a eneclann.

Bo geltach faithce .i. fer meite coimse na teit tar criċ, n
do airlisig riġ, aċt bid ina mendat fadeisin, ar imga
comlonn aenḟir o ro bi cona gaisced fair; cona dáim cáin
ḟedain do ningarar. Bo geltach .i. fer fogelta a bu
faithce ar cach nach déis etar coin allta ime; conaḋsí mo
insein. Ni dliġ dire na saire, ar is gnim meic no mna do g

Aitheċ baitse .i. fer na sáera dan na trebad; ni fuil
re daim in fer sin ina fuil; gnimiu laich lais. Ni téit
raith, na i naitire fri flaiṫ na eclais, ar is gae greine
gairter.

Oinmit; fer miter im droch mnai cȯ [no ona] ndentar me
ocus fonachtaíde .i. fosgeniġ. Ni dliġ dire in fer sin.

Midlach .i. miliaig .i. miḃellach .i. fer na ra gaib sealb

SEQUEL TO CRITH GABHLACH.

A henchman ('seirthuid'), i.e. a soldier of a good race, or a householding man, or the son of a leader, i.e. he is the nearest to the hip of a leader when going to a meeting, or to a 'dun'-fort; or because his father had been a leader; or, good is his family; or for his talents. He is entitled to free feeding in the territory, and *so is* his wife; and a 'samseisc focail' . . . . , and a *colpdach*-heifer *are due* for satirizing him, for abusing him.

These last nine grades do not possess the right to be taken to assemblies, nor companies *at refections*, nor to particular 'dire'-fine if they do not possess a holding, or talents, or followers (*a clan*). They do not get 'dire'-fine on account of stock, nor of land, nor for oppression, or misdeeds, because they are not worthy to enter into bonds or security, or *to give* pledges, or oath, or evidence.

A man who has lost his patrimony, i.e. a man who has sold his patrimony, and his land, and his stock, and who does not possess anything throughout the territory, visibly or invisibly, and the supply of whose stores is chaff; and he is not entitled to be advised in sickness or in cure; and his meals even are empty unless he steals, or unless he sells his honor in the same way; his green is empty to him too, as regards disease, and curing *of cattle* unless a person gives him something for God's *sake*. His freedom too is empty, and his 'dire'-fine, and his honor-price.[1]

A cow-grazier of a green, i.e. a man of small means who does not go beyond the boundary, nor to the enclosure of a king, but who remains in his own dwelling, because he has shunned a combat with a single man when he had[a] his arms on him; so it is gentle oxen that do not[b] labour he herds; *or, according to others*, a 'cow-grazier,' i.e. a man who grazes his cows upon a green on every property, between wolves all round him; and this is his wealth. He is not entitled to 'dire'-fine nor to freedom, because it is the deed of a child or a woman he performs.

[a] Ir. *Was with.*
[b] Ir. *Without.*

A 'baitse'-tenant, i.e. a man who is not freed by profession or residence; that man does not belong to[c] a company, who has not the deeds of a champion in him. He does not go security, nor is he a pledge with a chief or a church, because it is a sunbeam he is called.

[c] Ir. *Is not with.*

An 'oinmit'-person; a man who is matched with a bad wife by whom or from whom he is rendered deranged and unsteady, i.e. 'starting.' That man is not entitled to 'dire'-fine.

A 'midhlach'-person,[2] i.e. not famed in battle, ('mi-li-aigh,') i.e.

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[1] *His honor price.*—His rights are lost, that is, he has lost his municipal rights.

[2] *A 'midhlach'-person.*—The term 'midhlach' occurs in Cormac's Glossary (edited for the Archæological Society, by Whitley Stokes, 1868), and is translated, 'an effeminate person not fit for war, a coward (p. 119), and 'an imbecile,' (p. 130).

SEQUEL TO CRITH GABHLACH.

horba na trebad na trebṫair do. No midlach .i. meḋ ellach insin, ar inni is mellach o deilḃ ocus ciniul, cona damn cimeda insin tar cend tuaiṫe.

Reimm dno .i. fuirseoir, no druth. Naċ fer do beir rem mad fo corp ocus a enech, ni dliġ dire uair teit ara riċt a béluib sluaġ ocus sochaiḋe.

Riascaire .i. loingsech insin ar imgaib a chenel ocus a fin co lith cain ocus reċtge; ocus biḋ o riasc do riasc, no o slei [do sleib]. No riascaire .i. rathmaiġe daer do flaith ocu eclais. Ni dliġinn ḋire.

Sindach brothlaiġe .i. bruar caċ biḋ do, itir dilis ocu indlis; no cuma lais ciḋ bedh bruiḋes no do meala.

Seaacht ara midithar duine, cruth, ocus cenel, tir, ocu trebaḋ, dán ocus indbus ocus innrucus.

Miaḋlecta ecna tra, it ecsamla fri miaḋleċta tuaiṫe; a is cumal forbaid ineclainn graḋ neclasa, o aḋannad sailmcedlaiġ.

A setaib, imorro, forberat fene ocus filed, oṫa isel huasal. Imusfrecrat imorro, a fortach ocus a noithech espuc ocus ri bunuiḋ caċ cinn, ocus ollam filid, sacart oc sai, dno; ocus fer miḋbaḋ ocus foċlaċ.

Secht ngraiḋ ecna dno, do cuisin .i. rosai ocus saiḋ; anr ocus sruiṫ do aill, ocus sursaintid, ocus sreisneiḋiṫ oc fealmac.

Rosai dno, tri hanmanna teċtas .i. rosai, ocus ollaṁ, oc sai litre. Ollaṁ ina suiġe a tiġ miḋchuarta ar ise bis a t fri riġ insin. Rosai dno, ni urcoimdenḋ ní a cetheor randaib saiḋe; a díre. Cethrar ar .xx. a dam. Uiï. mo eirce a bais iṁa toichneḋ.

Sai litre; ata treiḋe conutaib lais conḋ comdíre frí

not possessed of cattle ('midh-ellach') i.e. a man who does not hold stock, nor inheritance *in land*, who does not plough, for whom ploughing is not performed. Or, a 'midhlach'-person, i.e. he is of middling composition in this case, because that he is middling of face and of race, so that he is the material of a victim *to be given* on account of a territory.

A clown, now, i.e. a mountebank, or a buffoon. Every man who brings distortion upon his body and his face is not entitled to 'dire'-fine, because he goes out of his own shape before hosts and crowds.

A marsh-man, i.e. this is a robber whom his race and his family shun, a violator of 'cain'-law and of law; and who goes from marsh to marsh, and from mountain *to mountain*. Or a 'riascaire'-man, i.e. a 'rath'-builder who is enslaved to a chief and a church. He is not entitled to 'dire'-fine.

A crumb-fox, i.e. he gets the crumbs (*or fragments*) of all food, natural and unnatural; or whatever he cranches or eats is his.

There are seven things out of which a person is estimated—form, and race, land, and tillage, profession, and property, and worthiness.

The distinctions (or titles) of wisdom (literary professions), now, are different from the titles of the laity; because it is a 'cumhal' of increase of honor-price that each grade of the church takes, from the lighter *of the candles, &c.*, up to the psalmsinger.

It is by 'seds,' however, the increase of the 'fene'-*grades* and the poets progress, from low to high. Their proof and their denial, too, correspond: a bishop and a king the origin of all chiefs, and an 'ollamh'-poet, a priest, and a professor however, and a 'mbidbadh'-man, and a 'fochlach'-person.

The seven degrees (or grades) of wisdom as settled *are*, i.e. a great professor and a professor; a noble stream, and a stream from a cliff, and an illustrator, and an interrogator, and a pupil.

As to a great professor, now, three names he possesses—a great professor and an 'ollamh' (chief doctor); and a professor of written history.[a] The 'ollamh' sits in the banqueting house, because it is he that resides in his house with a king on that occasion. A great professor does not fail in any question in the four departments of knowledge; . . . his 'dire'-fine . . . Four and twenty are his company. A seventh part of the 'eric'-fine for his death is paid for denying him food.[b]

A professor of written history.—There are three things which

[a] Ir. *Of the letter.*

[b] Ir. *Fasting.*

SEQUEL TO CRITH GABHLACH.

ruirech. Bith do i nucht ocus i lar a decepol ac foglaim uad. Ise fer inso dona timdibenar a dire cid faebracha fobith as neola ina pennait ocus ina dliged.

Anruth, dno; ar cetharda asberar .i. ar áine a forcetail; ar ilar a cetfaḋa; ar sulbaire a innsce; ar med a eolais; ar arecar in caċ rainn, itir filidećt, ocus leiġinn, ocus coimgne; aċt na roigh co cleite nama. Da fer .x. a dámh.

Sai .i. fer forcain cethramaid rainn suithe seicibí dib, ut cennfaelád: "Sai caém canoine, conid iarmairsi an march. Oċtar a lín; vii. cumala a díre."

Sruth do aill. Ise a bessaide, baidid cac mbec nétrumma naimirt; do foxla aiḃe, conoisce gne traga la tes sine. Imta samlaid in fer samailter fris; baidid droċ leiġniuḋa fortabraidsi co nailchib testemna ocus cedfaidi; ocus is tualaing a forcetal conoisce gné nairsneisin, co ndilgud im an aes mbecleiġinn indliġheċt traigit i frecnarcus anrotha.

Fursaind[tiḋ] dno, fortuisim a aitte i ceill ollomon. Teora leṫ ċumal a dire; acus cedfaiḋ cach nurcoimdeḋ uaḋasom ar iḋna a messraiġte, ocus ar áine a indtliuċta.

Freisneiḋid .i. fricomarc dia aite i ceill a olloman. Cumal a dire ocus cedfaiḋ cach nurcoimdeḋ uaḋasom do neoch bes andsom do.

Fealmac .i. fuilmac mic iar leiġind a salm. Leṫ cumal a dire.

Conid inand imusfreccrat graḋa ecna ocus eclasa fri graḋa file ocus féne; aċt is ecna mathair cacha dana dib, conid as a bais uile heḃait.

Secht ngraid file .i. éces, ansruṫ, cli, cana, dos, mac fuirmiḋ, fochlocc.

elevate him till he is of equal 'dire'-fine with a king of territories. To be in the bosom and in the midst of his disciples, learning from him. This is the man to whom his 'dire'-fine is not restored should he teach (or speak) silliness, because he is well versed in his penance and in his lawful rights.

A noble stream now; for four *reasons* he is so called, i.e. for the nobleness of his teaching; for the number of his intellectual qualities; for the eloquence ot his language; for the greatness of his knowledge; because he composes in every department, both poetry, and literature and synchronism; but he does not reach to the top (*of scholarship*) only. Twelve men are his company.

A professor, i.e. a man who professes a fourth part of the scientific course, whichever of them it may be, as Cennfaeladh *did:* "A comely professor of the canon, with his noble, good wealth. Eight are his company; seven *cumhals* his '*dire*'-fine."

A stream from a cliff.—The practice of that stream is, it drowns every little, light, weak thing; it carries off loose rocks, so that they acquire the appearance of the strand by reason of the heat of the weather. The same doth the man who is likened unto it; he drowns bad scholars whom he confounds with rocks of testament (*evidence*) and intellect; and he is able to modify his instructions to the complexion of *simple* information, in mercy to the people of little learning (below the average), who ebb in the presence of a noble stream.

An illustrator now: He answers his tutor with the sense of an 'ollamh.' Three half 'cumhals *are* his 'dire'-fine; and he gives the sense of every difficulty on account of the clearness of his judgment, and the nobleness of his intellect.

An interrogator, i.e. he interrogates his tutor with the sense of an 'ollamh.' A 'cumhal' is his 'dire'-fine, and he (*the tutor*) gives him the sense of everything which is difficult to him.

A pupil, i.e. a 'fuilmac'-pupil, a boy after reading his psalms. Half a 'cumhal' is his 'dire'-fine.

And so it is alike the degrees of wisdom and of the church correspond with the degrees (or grades) of the poets, and the 'feine;' but wisdom is the mother of each profession of them, and it is of her hand they all drink.

These are the seven degrees of the poets, i.e. the 'eces'-poet, the ansruth'-poet, the 'cli'-poet, the 'cana'-poet, the 'dos'-poet, the macfuirmidh'-poet, and the 'fochlocc'-poet.

The 'eces'-poet, i.e. not meeting with difficulties, ('ecsmacht-ces'), i.e. *one* to whom there is not difficulty nor impossibility such as to arrest him; or there is nothing which can be difficult to him in his profession, so that his name is non-difficult ('nemces'), or who meets no difficulty ('ecsmachtces').

A 'file'-poet, i.e. 'fialshai,' knowledge ('fial') proceeds ('sai') from him; for that which is 'feal' with the 'file'-poet is knowledge, or instruction in the common language; and it is hence come a pupil ('fealmac'), a philosopher (fealsub), and poet ('fili'), and poetry ('filidecht'). Or 'fili,' i.e. 'fi' and 'li,' i.e. the venom ('fi' of his satire, and the lustre ('li') of his art.

'Ollamh'-poet, i.e. much does he protect; i.e. he teaches the four departments of (*poetry*, &c.) ('*filidecht*'); and because the number is greater which is wont to be upon his protection than *upon that of* all the grades besides. Or, 'ollamh,' i.e. great ('oll') his company, ('damh,') four and twenty. For there are three 'ollamhs' in existence, i.e. an 'ollamh' of wisdom, a professor of every *kind of* knowledge for which he is appealed to; what he is asked for, he refuses not; no difficulty is carried away from him *unresolved* in the judgments of fathers and grandfathers. Or, 'ollamh,' i.e. more numerous is the number that are wont to be upon his protection than the other grades. Or, a high 'ollamh,' he binds, he is not bound. How is that? Answer—Like the King of Connacht, as it is said: "He is not the high 'ollamh' of the province of Ailill, the son of Mata Mor." Or, 'ollamh,' i.e. much does he protect, i.e. every one who is without nobility in the knowledge of the grades. The 'ollamh' in poetry teaches the four departments of poetry without ignorance in them.

'Anruth'-poet, i.e. because he binds, he is not bound in the same way as the King of Ireland.

The noble stream, i.e. a stream of pleasing praise issuing from him, and a stream of wealth to him.

The 'cli'-poet, i.e. the nature of the post ('cleith') is, it is strong and straight, and it elevates and is elevated, it protects and is protected; it is powerful from the ridge to the floor. It is the same with this grade in the poetic house, i.e. his art is powerful, and his judgment is straight in the circuit of his profession; he elevates his dignity above those who are below him, because his art embraces all from a noble stream to a 'fochlaoch person.'

The 'dos'-poet, i.e. from similitude to a tree he has been

Sequel to Crith Gablach
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feḋa foroiġlenat a ndan. Imtha samlaid is a hanmaim feḋa ocus a cosmailes ro hainmniḋeḋ dos; ar is ann is dos in crann dia bliadain, ocus it cetheora duille bit fair. Cethror, dno, dam in duis.

Mac fuirmid .i. mac fuirmither re dan os mac .i. is mac da a ḋan .i. ní maiṫ fograidedar son, act ar mac airbi is maith de.

Fochloc .i. fo cosmailius fochlocain co ndib duillib. Dis dno, dosom. No fochlaċ .i foċli seca .i. cen forboirt for a dan. No, cael a dan ar oige.

Bard, dno, ċin dligeḋ fegluime aċt indtleacht fadeisin.
Fear cearda, imorro, lan ċeird lasuiḋe.
Cainte, fear ara rosar a biad tn . . . ainm aire.

Ceist—In forcongarar turaċreic molta no aire?

Mad iar ndligid na treiḃe deoḋa, ni forcongair aċt molaḋ de nama, ocus is nem a loġ. Mad iar ndliġe na treiḃi domonda imorro, forcongarar ut Salmon quo modo comprobatur argendum in conflatona, et in purnoce aurum, sic homo ora laudantis.

Conmiḋither arm coir comaḋuis caċ duine dein dligthide, itir mac cleirech sceo laech, itir fear ocus mnai; treslisen cach mac cleiriġ, no caembachall fri hursclaiḋe uaḋ; cucael codat roded do cach mnai; ḋa gaei im echluisc nairiġa cach laich ina laiṁ; taball long do fileḋaiḃ, iar corus a graidh; ar iseḋ a comaḋas coir conmiḋiḋar arm indearḃ doib.

Ro miḋarthar morand fer saer, co cuimnib; cumal ceaċtar a da sul, ar ċruth, ocus deicsin cumthach; cumal beil ar blaisecht ocus labrad; cumul tengad, tachtaiḋ, dona labrad leicther; cumal tsrona ar bith ċluais ocus bolltnuġuid; da cumail cluais ar éistecht, ocus imcoimét; cumal braiġet ar

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! *A good 'muċ-airbe,' vid.* Cormac's Glossary *sub voce.*

named, i.e. it is through (under) the name of a tree they learn their art. In like manner it is from the name and the similitude of a tree a 'dos'-poet has been named; because the time that a tree is a 'dos' is after a year *of growth*, and it is four leaves that are on it. Four now, *are* the company of the 'dos'-poet.

The 'mac-fuirmidh'-poet, i.e. a boy who is set to *learn* an art from his boyhood, i.e. his art is his son, i.e. it is not well he has graduated, but he becomes a good 'mac-airbe."

The 'fochloc'-poet, i.e. *he is named* in similitude of a sprig of brooklime ('fochlachan') with two leaves. Two persons, therefore, *are allowed* for him *as company*; or 'fochloch,' i.e. a hard sub-tree ('fochli seca'), i.e. without increase (or expansion) of his art. Or, his art is slender because of his youth.

A bard, now, is one without lawful learning but his own intellect.

A man of art, now, he *is one who* has full art.

A satirist is a man who is deprived of his refections[1] . . the name of a satire.

Question.—Is payment for praise, or satire commanded *in the laws?*

If according to the law of the divine house, there is no command but for the praise of God alone, and heaven is its price. If according to the law of the worldly house, however, it is commanded, ut Salmon quo modo comprobator argendum in conflatona, et in furnace aurium, sic homo ora laudantis.

A proper, becoming weapon is estimated for every true, lawful person, both clerics and laity, both man and woman: a three-angled stave to every cleric, or a handsome crooked staff for the purpose of defence, &c.; a slender, smooth distaff for every woman; two spears with the horse switch of a chariot-driver for every layman in his hand; a tablet-stave for poets according to the propriety of their order; because it is their becoming propriety that estimates an uncertain weapon for them.

Morann has estimated a free man, for remembrance[3]; a 'cumhal' for each of his two eyes, for beauty, and seeing, and ornament; a 'cumhal' for the mouth, for taste, and for speaking; a 'cumhal' for choking the tongue by which it is not permitted to speak; a 'cumhal' for the nose because of hearing and smelling; two 'cumhals' for the ear, for hearing and guarding; a 'cumhal' for the neck, for laughing and for voice; two 'cumhals' for the

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[1] *His refections.*—The MS. is defective here.

[3] *For remembrance.*—That is as a mnemone.

SEQUEL TO CRITH GABHLACH. — C. 2070.

fuluth guth; da cumuil dí ḋóit ar luth ocus nirt; chumoil dí láim ar urgabail ocus fognum; da chumoil chos ar formteacht ocus folad; cumal brond ar thu ocus forbairt. [Gid sen cerobi asenaib neimdeitin dligid trasta.]

Cia neiṁead as naisle fil i talmain? Neimeḋ ṇeclasa. neimead is uaisliu fil a neclais? Neimeḋ neaspuic.

Ise espuc as uaisliu dibriḋe easbuc ecasla [ecalsa] peat as is fo máin bite flaite roiṁán; ocus ni bi foe moam neich i bi oige no aithrige, no lanamnusa dligtiġ; conaḋ dosui rosaig .uii. cumal cach graiḋ dona .uii. ngraḋaiḃ filit f ma beiṫ eric do itir, munabe eric, bas duine ind.

Cia hairni ita insin? Ata isin trachtaḋ do rigne augusi do ġraḋaib eclasa, ocus dia ndiriḃ, ocus dia toichneadaib, o a nos eclasa petair, ocus impir in beatha uile.

Ata tri cinaid fo fich duine .i. cin as luga oldas fadei ícaiḋ dia indile, cin as cutruma fris, teit fadeisin ind, as inó inás, a bás ind, la heríc o chiniud.

Ocas a neirind, cia dire as uaisle fil inde?
Dire espuic oiġe cona lan foltaib amail dleaġar do.

Caite riach gona espuic oiġe?
Nin. Tri cimiḋ a crocha caċa laime nodgoin; is leṫ ri a ġona ina ḋíguín.
Cach duine arudsisit her ocus nachid nanaiġ cach n cach fola[iḋ] ocus co nimṫeit biḋbaḋa, .uii. cumala cach ae.

Telguḋ fola do; ma ri talmain na fola inindriġ, crocaḋ biḋbad ind; no it .uii. cumala itir a ḟolach ocus a éric.

Mad ina aiġe, assenar conileṫet a aiġthe do argat, ocu

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[1] *Deeds.*—Every one who stands by and who protects him not with all strength and with all his might, the aggressor escapes, pays seven 'cumhals.'

fist (or wrist), for suppleness and for strength; two 'cumhals' for the hand for catching and for working; two 'cumhals' for the leg, for walking and supporting; a 'cumhal' for the belly, for grace and swelling. As to this, however, though it was enacted, in the olden they are unrecognised by law at the present time.

What is the highest dignity on earth? The dignity of the church. What is the highest dignity which is in the church? The dignity of a bishop.

The highest bishop of these is the bishop of Peter's Church, because it is under his subjection the chiefs of Rome are; and they are not under the subjection of anyone who has not virginity, or repentance, or lawful espousal; and it is to him that seven 'cumhals' are payable for every degree of the seven degrees (or, orders) that are upon him, if there be 'eric'-fine for him at all; if not 'eric'-fine, *there is to be* the death of a person for it (*the crime*).

Where is this *to be found?* It is in the tract which Augustine wrote upon the degrees of the church and of their 'dire'-fines; and of their non-feedings, and the particular law of the church of Peter, and the emperor of the whole world.

There are three crimes which a person commits, i.e. a crime smaller than himself which he pays with his property, a crime which is equal to himself, he himself is paid for it, *as to* a crime which is greater than his death, *himself, is due* for it and with 'eric'-fine from his family (or tribe).

And in Erinn, what is the highest 'dire'-fine therein?

The 'dire'-fine of a virgin bishop, with his full attributes such as he is entitled to.

What is the penalty[a] of wounding a virgin bishop?

[a] Ir. *Debt.*

Answer: Three victims to be hanged from every hand that wounded him; half the debt of wounding is *paid* for insulting him.

As to every person who sees and who does not protect him by all his strength, by all his deeds,[1] and that the guilty person escapes, there are seven 'cumhals' *due* from each.

As to shedding his blood; if it reaches the ground, as blood that requires a tent,[2] the guilty person is to be hanged for it; or it is seven 'cumhals' *that are to be paid* for his sick maintenance and his 'eric'-fine.

If it (*the wound*) be in his face, the breadth of his face of silver is paid, and of the crown of his head of gold; and he sues him *for*

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[2] A tent.—*Vide* Book of Aicill.

SEQUEL TO CRITH GABHLACH.

mullaiġ do or; ocus adgaire nainme i sochaide co cenn
mbliadan; o suiḋiuḋ anunn, is cumal ind, mena dilġe.

Ma anfot, is leṫ, .uii. cumala inn.

Banbeim ar aenlus, is cethruime .uii. cumala int.

Ma ṫallar ní dia fult, sed cacha fuilte ind co fichit fu

Masa rugud ar aenlus do gabail a laime, no a étaig,
tiscail a ċluic aire, is leṫ fiach a gona ind. Asberat i
fiach a dígona araile.

In sacart oiġe, dno, is tanisi espuic oiġe. Is cumal iti
a ndire do cach fogail fosechur friu, ocus do caċ
Imtha samlaiḋ cach grad oiġe co tice ina cleirech i
condaṫ .uíí. cumala ina guin, no cimiḋ; aċt ni cach cimi
.uíí. cumala ind indiu laimed na nduine no in biḋbaḋ do f
in cinaiḋ; ocus ma do bunaḋ ciniuil do, ocus isaéṙċlan
fiach a gona ina díguin, ut supra dix imus.

Easpuc aenseitce, dno, da trian saiġes co hespuc noiġ
caċ cata, ocus do tac díre condat da .uíí. cumal ina
ocus a leṫ ina díguin.

Imtha samlaiḋ sacart aenseitche; is cumal itir aċ
nae, con da trian .uii. cumala do mac cleirech aenseitċe.

Is a trian dno, seġdai na gradai aenséiṫce fris na gr
oiġe, do caċ fogail, itir dergbem ocus banbéim cnocbeim,
sarugud; ocus inchemn itir ni bes ar aenlus ocus n
ar aenlus, amail is rubrad a ngradaib oiġe.

Espuc aithṫriġe, dno, da trian saiġes co hespuc naensé
.ix. cumala ocus da bai ina guin; leṫ fiaċ a gona ina dig
ocus ina saruġaḋ.

Imtha samlaiḋ sacart aithriġe; is cumal itir aṫa
espuc aiṫrige.

every time that he is reproached with the blemish[a] in a crowd, to the end of three years; from that out, it is a 'cumhal' in public for it *that is due*, unless he forgives him.

If it be unintentional, it is half seven 'cumhals' *that is paid* for it (*the wound*).

If it be a white sudden blow, it is a fourth part of seven cumhals' *that is paid* for it.

If any of his hair is pulled off, there is a 'sed *due* for every hair of it to twenty hairs.

If he be suddenly caught, to grasp his hand or his clothes, or to deprive him of his bell, half the fine for wounding him is *to be paid* for it. Others say that it (*the penalty*) is half the debt of insult to him.

The virgin priest now is second to the virgin bishop. It is a 'cumhal' that is between their 'dire'-fines in every trespass that is committed against them, and in every case of distinction (*separate case*). It is so with every grade of virginity until it comes to be *the case of* a virgin cleric, so that there are seven 'cumhals' *due* for wounding him, or a victim; but it is not any victim, but seven 'cumhals' *a victim* that is paid for it, to buy off the people or the guilty person who committed the crime; and if he is one of the original race *of the district* and of a free family, half the fine for wounding him, is paid for insulting him, ut supra diximus.

As to a bishop of one wife, now; he reaches to two-thirds of the fine to a virgin bishop in every case of distinction, and in every 'dire'-fine, so that it is seven *that are due* 'cumhals' for wounding him, and the half for insulting him.

It is the same with the priest of one wife; it is a 'cumhal' also that is for each of them, so that it is two thirds of seven 'cumhals' that *are paid* for the cleric of one wife.

It is to the extent of a third now, the grades of one wife reach to the grades of virginity, in every trespass, whether[b] a red blow and a lump blow, and violation; and graduating between the thing that is sudden, and that is not sudden, as was said in *the case* of the virgin grades.

As to a penitent bishop now; to the extent of two thirds he reaches to a bishop of one wife: nine 'cumhals' and two cows *are the penalty* for wounding him; half the fine for wounding him *is paid* for insulting him, and for violating *his protection*.

It is the same with a penitent priest; it is a 'cumhal' that is between him and the penitent bishop.

[a] Ir. *Blemish.*

[b] Ir. *Between.*

SEQUEL TO CRITH GABHLACH.

Imṫa samlaiḋ cach graḋ asas dia raile co dia, is cumal itir aṫa; condat teora cumala a nguin mic cleirig aithriġe, ocus a leṫ ina diġuin. Et comdire dno, ocus mac cleirig biti itir tuaiṫ ocus eclais, cin guin cin gait; ocus it da trian segda na graḋa aithriġe fris na graḋa aenseitche do cach cáta ocus do cac díre itir ċelcoḋ fola ocus banbém ocus deargbéim, amail is ruḃraḋ.

Atait tri haithlaich i neclais .i. ahlaech ar a tabair anmcara a ṫeist, ocus sacarbuic bis a fír aéntaiḋ eclasa, cin comus coise na laime. Is o graḋ oige do renaru. Is comdire fri mac cléirech noiġe; condat .uii. cumula ina ġuin, ocus is comdire do cach cáta olchena, ocus telcoḋ fola ocus banbeim.

Athlaech ara tabuir a test nad nascnai sacarbuic, cad aċt da trian rosaiġ cosin athlaech tuisech. Athlaech aile, do beir crich fria tola, ocus do taet co cleirchiu iniu, na tabair anmcara a teist. Da trian saiġeas cus in aṫlaech meḋonach.

Na ba machtad la nech comdire don[a] athlaechuib fas noiġe, mad beiṫ dia seirc la dia, ocus di met a saethair, mat comlina a ferta, no mat lia, amail do boi petar ocus pol fri heoin, ocus amail ro boi antan ocus nartan; Ut dicit scriptura, "ubi habundabit dilechtum, super habundabit gratia."

Ocht cumala in díri saiges espuc oiġe, uii. cumala di sacart oiġe. ui. cumala din gruid tanuisiu. Imṫa samlaiḋ caċ graḋ asas diaraile co diad; is cuimal itir cac nae; conad cumal i ndíre hseóit mic cléirig oiġe.

Da trian saiġes espac aentseitċe co hespac noiġe; condat .u. cumala ocus da bai i ndire a seoit espuic aenseitċi. It da trian saiġes maile.

It is the same with every grade that grows above another, unto the end, it is a 'cumhal' that is between them; so that it is three 'cumhals' that are paid for wounding a penitent cleric (or clerical student), and half thereof for insulting him. He is of the same 'dire'-fine now with the clerics (or clerical students) who are between the laity and the church, not being guilty of wounding or theft; and it is to the extent of two thirds the penitent grades reach unto the grades of one wife, in every case of distinction, and in every 'dire'-fine between shedding of blood and a white blow and a red blow, as has been said.

There are three *kinds of* lay recluses in a church, i.e. a lay recluse upon whom a soul-friend pronounces his character *of approval*, and *who goes to* the sacrament, who is in the true unity of a church, without power of foot or hand. It is as a grade of virginity he is paid *fines*. He is of equal 'dire'-fine with a virgin clerical student; so that there are seven cumhals for wounding him, and he is of equal 'dire'-fine with him in every dignity besides, and shedding of blood, and white blow.

A lay recluse upon whom he pronounces his character, who does not go to the sacrament, it is but two thirds he reaches to the first lay recluse. Another lay recluse *is he* who puts bounds to his passions, and who goes to the clergy at this day, upon whom a soul-friend does not pronounce his character (or recommendation). To *the extent of* two thirds he reaches unto the middle lay recluse.

A person should not wonder that there should be an equal 'dire'-fine for the lay recluses who are without virginity, if they be beloved of God, and their works great, if their miracles are as numerous, or if they are more numerous, in the same way that Peter and Paul were to John, and in the same way Anthony and Martin were; ut dixit Scriptura, "ubi habundabit dilechtum super habundabit gratia."

Eight 'cumhals are paid as the 'dire'-fine of a virgin bishop, seven 'cumhals' to a priest, six 'cumhals' to the grade second to him. It is the same with every grade which grows above another to the last; it is a 'cumhal' that is between every two of them; so that it is a 'cumhal' that is paid as the 'dire'-fine for the 'sed' of a virgin clerical student.

To two thirds the bishop of one wife reaches unto a virgin bishop; so that two 'cumals' and two cows are *paid* as the 'dire'-fine for the 'sed' of a bishop of one wife. It is to two thirds the rest advance.

Sequel to Cruith Gabhlach.

In a tamal ṡinchep. tonna tecra .L. ar triche do [illegible] do mac clerech aenfeichte a noime a feoit.

Inchaim ṡamlaid erpuc archpriġe: it da trian fuiġer in [illegible] aenfeichte do tire a feoit: tontar teora tamala ocuṡ .iii. [illegible] a noime feoit erbuic archpriġe. It dá trian do tuch [illegible] page teora. Ina tamal ṡinchep. tontar tra .L. ar triche do mac clerech archpriġe i noime a feoit.

Atlaech tra tubairt anmcara ocuṡ [illegible] teiṡt [illegible] a feoit [illegible] mac clerech noiġe .i. tamal doib. Atlaech ele [illegible] tonaipe a feoit [illegible] mac clerech noiġe: .L. ar triche doib. Atlaech ele dno. tuntire a feoit [illegible] mac clerech naitpriġe. tra tuecait triche doib.

It is in ‘cumhals’ they are computed, so that it is four times fifty nights of penance *that are due* from a clerical student of one wife as ‘dire’-fine for[a] his sed.

It is the same with the repentant bishop; it is to *the extent of* two thirds he reaches to a bishop of one wife as to ‘dire’-fine for his ‘sed’; so that it is three ‘cumhals’ and three cows *that are paid* as the ‘dire’-fine of a repentant bishop. It is two thirds to each with the other till it comes to the last. It is in ‘cumhals’ they are computed, so that there are three times fifty nights *of penance* due by the repentant clerical student as the ‘dire’-fine for his ‘sed.’

As to a lay recluse of whom a soul-friend and a priest gave a character; his ‘sed’ is of equal ‘dire’-fine with that of the virgin clerical student, i.e. a ‘cumhal’ for them. *There is* another lay recluse now; the ‘dire’-fine for his ‘sed’ is equal to that of a virgin clerical student: four times fifty nights *are due* to them. *There is* another lay recluse now; the ‘dire’-fine of his ‘sed’ is equal to that of a repentant clerical student: three times fifty nights *are due* for them.

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[a] Ir. *In lieu of.*

SUCCESSION.

372

Succession.

Sinnsear la fine, feabta la flaith, ecna la hecl

Ocus, mar atdeir "ar is dagaltrait bela brugaib fri
brecha, ara cae borb ecna i nordaib eclaise ara cae ait
flait, ara cae osor sinnsir;" .i. eirgi no comnaigus in ti
roim in ti is sine ar in rigi, no ar an apdaine, no is in flaim
ngeilfine. Mar atdeir; "Forcena aos la feine; ar in
aire do comċenel bes cutruma feib ocus toċus, ocus in ti
sine isé do féd." Ocus; "dligid sean sogaire, ocus dl
sinnsear saor toga." Ocus; "do fed ae aesaib, ocus do
liat (no lias) labra," .i. na rigi mara comaes, comarch iar
crannċor acurra um an rigi; ocus ma sine neaċ feċ a
dib is a dul inn. Ocus; tatat linn dais log sinnsir,
naidbsina, tus nurlabra, togo do rannaib, do rathaib do b
do biṫ tuisib, do tlacht, do talmain. Is de ata, rannaid ó
ocus dogoga sinnsear. Ocus; ni cuirither cuairt for gab
fine mana tabra dia do neoch diḃ in trunnrad; acht iar f
do goathar ocus a dogarṫor .i. deide ar na cuirthe
cúairt; ma la haon gabail no mana bé do na gablaib do
aba bas ferr, cid coitcenn doiḃ. Deigi dno, ar curta
coitcennas ocus comadbur .i. ceall iar ngrian, ocus fine er
ima leiṫ; is iar reiḃ do gablaib imatbiat .i. is iar re na g
ḟir bis sin don gabail eile; ar is iar nairillud do t
ina coimsi, ocus is iar febas is na gabla fadeisin, ocus i
feaḃas in graid imorro,

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[1] The following remark by the Scribe is prefixed to this short tract:—
"Dar in Lebar so maḋ fedaim a nainm ḋia berat in sinnsear ra
sosar ann gaċ gne mar a deirid na dliġti so sis. Tairis sin d
trecumusc da ndlithib trit a ċeile.

SUCCESSION.

SUCCESSION

"The senior with the family, dignity with the chief, wisdom with the church."

And, as it says: "For well fostered was vigorous life in the old judgments, for ignorance was set aside for wisdom in the orders of the church, a boor was set aside for a chief, the junior was set aside for the senior," i.e. the person who is junior shall rise or walk out of the kingship, or the abbacy, or the 'geilfine'-chieftainship before the person who is senior. As it says: "Age is rewarded by the Feini," for where there are two chiefs of the same family who are of equal dignity and property, the senior shall take precedence. And *again:* "The old man is entitled to good maintenance, and the senior is entitled to noble election." And; "science takes precedence of age, and greyness takes precedence in speaking," that is, if the kings be equally old and good, lots are to be cast between them respecting the kingship; but if one of them is older than the other, he shall go into it. And; "I have for age the price of the senior, beginning of speech, beginning of utterance, choice of divisions, of stock, of kine, of 'bith'-tuisi, of raiment, of land." From this is *derived the maxim,* "The junior shares, and the senior is elected." And; "there is no enquiry *by lot* among the branches of the family if God has endowed one of them in particular; but he is rejected or chosen according to his goodness, i.e. there are two things for which the enquiry is not made *by lot;* if it belongs to one branch, or if there be not of the *different* branches to whom it is in common a better 'materies' of an abbot. There are two reasons also for which the search is made, i.e. commonness and equal 'materies' i.e. a 'cill'-church to which the tribe of the land[a] and the tribe of the patron saint succeed equally, they shall succeed in turns about, i.e. it is after the turn of the true branch the other branch shall have its turn; for it is according to desert they come into power, and it is according to the goodness of the branch itself,

[a] Ir. *After he land.*

By this book, if I can, in the name of God, I will bring the senior before the junior in every case, as these laws down here state. Beyond this I will make an intermixture of their laws altogether."

don gabail berí e in riġi ise téid innti .i. in ti is ferr isin gabail sin. Ocus; cenn caich iar nderaiḃ a fine, .i. iarum gurab do réir na fine ber an caċ is cenn.

Bera sruithe; bera huaisli; bera trebairi; bera gaithe; bera ecna; bera sochraiti co fior; bera treisi fri himfoiched; bera forusda fri hurnad somaine, ocus domaine. Ocus, imdith gach corp a memra, ma socorp, fo gnimaib, soberaċ, slan, sofolṫac, socumas. Corp ca crich a fine. Ni bí naċ corp cen cenn.

Bera sruithe .i. a naois no a cenel. Bera huaisli .i. a ngraḋ. Bera trebairi .i. im ar ocus im buain. Bera gaithe .i. a necna no a naicne. Bera ecna .i. a leiġenn. Bera sochraiti co fior .i. bes deġ ċairdis go luċt fiora .i. cara muinntir tar crich a gabail lais. Bera treisi fri himfoiched .i. fri eimfuaitri do ċhaċ diḃ. Bera forusda fri hurnad somaine .i. dibaid. Ocus domaine .i. cina. Ocus imdith gach corp a memra .i. is eimdiṫna gaċ cenn a moo foirriṫneċ. Ma socorp .i. ma deġ ċenel é gin gú foirgeall, gin gusiadnaise. Fo gnimaiḃ .i. gin guin gin forlorcaḋ. Soberaċ .i. gin gait gin brait. Slan .i. gin cinta. Sofoltaċ .i. um oin ocus im aithne ocus im airleca. Socumas .i. im echaib im srianaib. Corp ca crich a fine .i. iseḋ is corp don cach is cenn a fine. Ni bi naċ corp cen cenn .i. dib fein forra do reir dligid.

Ocus mar adeir; finechur gaċ solebaċ, ni forbrisstar naċ indlesa, tren gaċ gaoṫ; maiṫ gaċ ben genmnaiḋ na bi druth; maiṫ gaċ mac bes gor dia aithair; maiṫ gaċ mac bes gor dia eclais; ni hinairbtar uaithe cia dos necma for ċosnam; ar ni tuiḋmenar cuir neime, ar innsamailter fri bera carpaid naċ tuiḋmed (.i. dia tarda do lam do roṫ in carpait * *); naċ tuiḋmen do nuiḋmenar is tuaslucaḋ ḋo nuaslaicter uaḋ .i. naċ innsaigid innsaiġeas neċ cuigi, is sia sa sia uaḋa é. Imṫa samlaiḋ in tinnoliġṫeċ cosnas riġi no abdaine, is ro siade uaḋa e. Ocus; ara feser teċta riġ ba somaineaċ romaineaċ .i. soagallaim gin mordatad. Ba ro raṫmar .i. gurab mor a raṫ do ceilib. Ba ro maoṫ i macaib ḋe .i. fri macaib eclaisi.

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[1] *That thou mayest know.*—This seems part of the 'teagaisg riogḋa,' or "Instruction of a King" ascribed to Cormac Mac Airt, King of Ireland, A.D. 250. It is somewhat in the manner of the first part of "The Book of Aicill." *Vide* Ancient Laws of Ireland, vol. 3, pp. 85, 107, &c.

and it is according to the goodness of the grade also, and the most worthy person of the branch shall go into it, i.e. the best person of that branch. And "the head of all according to the 'dera' of the tribe," i.e. that every one who is a head should be afterwards according to the family.

Who is the noblest; who is the highest; who is the wealthiest; the shrewdest; the wisest; who is popular as to compurgation; who is most powerful to sue; the most firm to sue for profits and losses. And; every body defends its members, if a goodly body, well-deeded, well-moralled, affluent, capable. The body of each is his tribe. There is no body without a head.

Who is the noblest, i.e. in age or in family. Who is the highest, i.e. in grade. Who is the wealthiest, i.e. in ploughing and reaping. The shrewdest, i.e. in wisdom or in mind. The wisest, i.e. in learning. Who is popular as to compurgation, i.e. who has good friends with compurgators, i.e. good friends outside the territory adhering to him. Who is most powerful to sue, i.e. to prosecute for each of them. The most firm to sue for profits, i.e. of the 'dibadh'-property. And losses, i.e. liabilities. And, every body defends its members, i.e. every head quickly defends its relieving servitors. If a goodly body, i.e. if it be of a goodly race, without false decision, without false witness. Well-deeded, i.e. without wounding, without burning. Well-moralled, i.e. without thieving, without robbery. Sound, i.e. without crime. Affluent, i.e. as to lending and giving in charge and on pledge, or for interest. Capable, i.e. as to horses and bridles. The body of each is his tribe, i.e. the body of each person who is head is his tribe. There is no body without a head, i.e. of themselves (*the tribe*), over them according to law.

And as it says: "Every bedfellow is a tribeman; nothing unlawful is a loss; every wise man is mighty; good is every chaste woman who is not lecherous; good is every son who is obedient to his father; good is every monk who is obedient to his church; he shall not be expelled therefrom, though it should be contested with him; for the contracts against the 'nemhedh'-person are not binding, for every binding is likened unto the manner of the chariot (i.e. if thou puttest thy hand to the wheel of the chariot *it escapes thee*) every closing up that is made is an escape from him; i.e. every approach one makes towards it, the farther and the farther it is from him. And thus also is the unlawful person who contests a chieftainship or an abbacy, *the nearer he comes to the law*, the farther is it from him." And, "That thou mayest know,[1] the right qualifications of a king who is wealthy and affluent," i.e. affability without haughtiness. "Let him give much stock," i.e. let his stock to his tenants be great. "Let him be kind to the sons of God," i.e. to the sons of the church.

SUCCESSION.

Ocus; a ua cuinn, a cormaic, ol coirpri, cia as ngebṫar flaith for tuaith? Nín—A feib crota ocus cenoil, ocus ceille ocus earngna, ocus ordain ocus urlabra; a maiṫ ocus a ngais, ocus a nirt, ocus a sochraid ocus imgona gabthar.

Ocus; anmesaċ caċ moċtaid, .i. is fir lium mesemnu flaṫamnasa don tí do ni cach domoġuġ.

Ocus; umus cumdait fine, .i. deċaib ocus dedaċ ocus do gaċ uile taḃartur.
Ocus; barr flaith uas cach, ocus taisech cacha fine ar do neċad feib ocus bescna .i. na tri conntairismib.

Ocus; ba fis gnae no aiḃainn gan guin indetbiri, ocus gan gaid itir. No, is dó is coir tuisiġeaċt na fine, don ti is ferr toċċus fri hurnaḋ mbiata.

Ocus; mar adeir, forga gaċ fine a fosguiċe a fallsgaḋ .i. isé is ferr is fir togaiḋ don fine in ti foscuchas uatha in tiumad innoligid scuchas cucu, no scuċus fal doċraite diḃ.

Ocus adeir; cenn trom cach main, .i. is trom leis a cenn in ti gabas maoine in raṫa.
Ocus; ailid gach rath a somaine.
Ocus mar adeir; ni fiaċ for aiċ aos; ni haos conroġlatar finntiu; ni haos nennta nemtesa.

Ocus; dofed og iar nguls .i. soillsi.

Ocus; sruithem feib aos.
Ocus; ni ti sinnsear ria nosar, muna forcraṫar.

Ocus; na fortéd la sainnt sluinti on flaiṫeas .i. cemad sanntaċ lais.
Ocus; do saoi crib combruth omna oṫoch socraiti.

Ocus; adguiter na seagar nad aiccither cosasar cosegar co fuastar naidm fonaim for naidm.

vocative A; not the prep. ua ← should read: "O grandson of Conn O Cormac, (etc.)"

Succession.

And ; "O grandson of Conn O'Cormac, said Coirpre, for what is a prince selected over a country? Answer—From the goodness of his form and race, and sense and learning, and dignity, and utterance; he is selected for his goodness, and for his wisdom, and strength, and forces, and valour in fighting."

And ; every powerful man,[1] is to be estimated, i.e. I deem it right that chieftainship should be ceded to the person who is able to master all.

And ; "He sustains the tribe," i.e. with horses, and raiment, and every kind of gifts.

And ; "The chief overtops all," and, "he is the chief of every tribe who is constituted by his dignity and customary law," i.e. the having the three immoveable things.

And ; "his good knowledge ('ba ꝼıꞅ') pleasant or delightful ('ᵹnae') who has not committed any unnecessary killing nor any theft at all." Or, the person to whom the chieftainship of the tribe is due by right is he who has best property to bestow food.

And, where it says ; "The choice of each tribe who removes from them the amount of their illegality," i.e. he is the best man to be chosen by the tribe, who removes from them the great amount of illegality which came upon them, or who removes the barrier of oppression from them.

And, it says : "a heavy each property," i.e. he deems his head heavy who receives the wealth of the stock.

And ; "every stock deserves profit in return."

And, as it says : "It is not the tooth of old age that merits it ; it is not age that shares the tribe-lands ; it is not the age of nettles that gives them venom."

And : "Youth takes precedence of dotage," i.e. when the old man loses the light *of reason.*

And : "Qualification is nobler than age."

And : "The senior does not go before the junior, unless he is wealthier."

And : "Let him not go, through covetousness of the name, into the chieftainship," i.e. though he should covet it.

And : "Quickly is he set aside who was elected by the pressure of the fear of shouting hosts."

And : "it is requested that his claim be not confirmed until he is sued, pursued, and prosecuted. Let the contract of an indigent surety be made firm."

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[1] *Powerful man.* In H. 3, 18, p. 389 *a*, 'moċtaıꝺ' is explained 'ꝼeꞃ ıꞅ ꝺeċ ꝺon ꝼıne, the best man of the tribe (or family).'

Et meilior est puer sapiens quam senex stultus, .i. is ferr in tog eccnaiḋ na in sen borb a necna.

Ocus; Ciḋbe dfoglaib boaireċ decma ima leṫ, ciḋ sine naċ ae dib araile, in grad bes sruithe (.i. im toċus), ise doféd.

Ocus; Ni beir ech lan eneclann tar ailchib in domain. Sic flaith gin toċus.

Ocus; ar is a loċtaib coirib inlongathar eathar; sic flaiṫ.

Ocus; claon caċ leṫ ard.

Ocus: lengaċ gaċ nellaċ.

Ocus; do ba fola flaiṫ; fillter tri selba; insegar diġbad .i. dibaither ae uais in fir ó aisneter fir dibad a flaṫamnais fris.

Ocus; fithnaisi gaċ nolc iarmobi triur.

Ocus; tulaċ tiġearnais i tarraṫar triar.

Ocus; ar berar iubail a comdiden; tri comarbaib cengar

Ocus; domberar mes maineċ .i. tabair meisaṁnuġ go hoġ for gaċ nduine asa main.

Ocus; do baide muir maca mincorthar mesgagra fo lergaib lana. Sic iseḋ fri huasal.

Ocus; ni suiḋe dibaḋ dal don aon mes.

Ocus; nis necnairc moġa miḋiter dire .i. ni mesamnaiġann an breṫem eneclann a flaṫamnasa do neoċ a necmais a toċusa.

Ocus; confoġlatar dire itir min, ocus nin, ocus mainbṫiġi, idir grad, ocus grad, ocus ordan, ocus ard (.i. in ri), itir maoṫ, ocus mear, ocus meirdreċ, ar nis ninann crann conreṫed saoire .i. amail naċ inann cain reṫas dire i mbeim na crann itir aireḋa feḋa ocus aṫaċa feḋa; sic flaiṫ gin toċus.

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[1] *Disease of evils.* Unless his father and grandfather were good men his son is a 'fithisi uilc' (the disease of evil) afterwards, H. 4, 22 (C. 2027).

[2] *Hill of chieftainship.* If his father and his grandfather were chiefs, and that he is a chief himself, he is "a hill of chieftainship" afterwards.

Succession.

And; "Melior est puer sapiens quam senex stultus," i.e. better is the wise youth than the old ignorant of wisdom.

And; "Whatever number of the divisions of the 'bo-aires' happens to be contending *for headship* though one of them be older than the others, the grade that is most wealthy, i.e. in point of wealth, it is it that takes precedence."

And; "A horse does not bear his burden over dreaded rocks. Thus the chief without wealth."

And; "For it is from proper parties the vessel is manned;" so the chief.

And; "Every thing uneven is biassed."

And; "Every wily person is unsteady."

And; "The qualification of a chief are taken away; three possessions turned off. The 'dibadh' is sought, i.e. the noble quality of the man is taken away, when it is ascertained that his chieftainship is truly separated from him."

And; "He is the disease of evils[1] after three persons."

And; "He is a hill a chieftainship[2] in the third person."

And; "For it gives prescription of acknowledgment;[3] three heirs have succeeded one another."

And; "He is estimated according to his wealth," i.e. there is a perfect estimation made of every one by his wealth.

And; "The sea overwhelmed the smooth bordered plain of 'Mesgaghra' under its full watery plains." Thus it is with a noble, *he overwhelms all beneath him.*

And; "A meeting does not estimate the same 'dibadh' for every one."

And; "It is not in the absence of property 'dire'-fine is estimated," i.e. the Brehon does not estimate the honor-price of his lordship for a person in the absence of his property.

And; "The 'dire'-fine is distributed according to dignity, extent, and wealth, according to grade, and grade and order, and elevation (i.e. the king), according to foolishness, and lunacy, and whoredom, for "the trees which attain to nobleness are not all the same," i.e. as 'dire'-fine does not equally run for the cutting of the trees as regards the noble trees and the common trees; so a chief without property.

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[3] *Prescription of acknowledgment.* It forms a period of prescription if the lordship has continued in the same family for three generations or successions.

Succession.

Ocus ; fealbta la flait .i. ma taet .u. daer bothaig no .x. f
bothaig dimarcra ag in ti is og, is a dul is in flaithus fo cen

Ocus ; forat ni acair acht beo-cainneall a flaithas .i. i
nacarthar do techt is in flaithes fo cedoir, acht an ti i
taithnemach é amail ced nibi .i. mac flatha, ocus na aroile.

Ocus ; do batar ae uais .i. mana flait a athair ocus a f
thair, cid coimcenel a buna, dibaid a flait aire.

Ocus ; ma sluinter flait frit dibaid .i. fri saegal triar

Ocus ; flaith athair .i. aithech cineoil na bi flait athar
senathar. Ocus nir orda dligeo do sin at derg carna
saill gin tsaille, agus arbur cruaidh bid, ocus di lá.

Ocus ; fir nairfir .i. in ti is airfir ini toċus.

Ocus ; ni bi rí ri gin fola .i. do ceilib ócus buaiḃ.

Ocus ; ni ri tuath og na biad geill .i. ced mancaine .i. a d
cana imcing do crich .i. ēē ceimnigrus tar an crich do de
cairde ; noċ dligiḋ boin co tine caċ orba tar a cuinngell
cenn combi cedaib, o bega co mora. .xxx. traiged a teċ ;
fiċt bo ina tig ; tri traiged .xx. a ircha. Isé fer inns
ri, dliges eneclann ocus dire ocus trebairi ocus log-eneċ,
dire a trom gresa, ocus a duinn.

Ocus ; ni rig tuath og na biat tri ri tuaithi .i. noċ
tuath is raiti reis muna tuga se ucca togaiḋaċta ceilsin
tri ri tuaithi.

Tri ri tuaithi ag ri tuat ; cuic ri tuaiṫe ag ag ri cui
cuic ri cuiciḋ ag ri erenn, ar a mbeḋ cis ocus dliged for
ocus tinċor iní teneacartar fo tin fo taoḃ dó ; brecána
cuilċe.

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[1] ‘*Donn*’ is explained lordship or theft in C 2801; the chief was entitled to a ce

And; "Qualification with the chief," i.e. if the person who is the most worthy *of his family* has five 'saor'-cottiers or ten 'daor'-cottiers of excess (*over and above the rest*), he is to enter into the chieftainship at once.

And; "For none but a living candle seeks the chieftainship," i.e. it is sought by none to enter into the chieftainship at first, but the person for whom it shines like a candle, i.e. the son of a chief, and the grandson of another.

And; "They were once noble," i.e. unless his father and grandfather were chiefs, though he may be of the same race as to his origin, his chieftainship is lost to him.

And; "In which it is stated that a chieftainship is lost," i.e. during the ages of three persons.

And; "A plebeian chief," i.e. one of plebeian race, whose father or grandfather was not a chief. And the law orders him but red fleshmeat and fat without being salted, and dried corn as food, and two days . . .

And; "Fir nanfir," i.e. the person who is not a fit witness as to property.

And; "A king without property is no king," i.e. as to tenants and kine.

And; "He is not a king of territories who has not hostages," *unless three kings have given him hostages*, i.e. one hundred 'manchaine,' i.e. his 'cain'-party, when going outside the territory, i.e. when he goes out of the territory to make 'cairde'-regulations; he is entitled to a cow and a salt pig from every townland for making a treaty for them, until he has one hundred both large and small. Thirty feet is the length of his house; *he has* sixty cows in his house; twenty-three feet *is* the length of his kitchen. This is the man, i.e. the king who is entitled to honor-price, and 'dire'-fine, and surety, and honor-price, and to 'dire'-fine for his heavy work and for his 'donn.'[1]

And, "He is not a king of territories who has not three kings of territories *under him*," i.e. he is not to be called a king of territories unless he has given choice selection of tenancy to three kings of territories.

Three kings of a territory are under[a] a king of territories; five kings of territories under[a] the king of a province; five kings of a province under[a] the King of Erin, from whom he has tribute, and law, and furniture, besides i.e. plaids and quilts.

[a] Ir. *With.*

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fine for any injury done to any rich article of furniture belonging to him, or for stealing of his property.

Succession.

Ais ingna lium sin, ocus ro ba raḋ; aire forgill frisi
ri no abdaine; gin go raiḃ aigi acht airm no ėcaċ is enecla
ri no airec forgill dó. Ocus fos, aire ard airdnemid ca
tuaċ tesairg .i. di gin a loġ bais airi gonaċ laigainn ainnsir
do eċtrannaib.

Ocus; ni dlegar maca la flaith.

Ocus; dligid saill ċeann; ocus, corab flaith aicind gaira
dligeḋ don neċ leir bail rugaiḃ daġbail a dualgus cruiḋ e
ach a dualgus ceile; ocus o na ceiliḃ ata saill don flaith; oc
ceiliḃ tormaigeas do gradaiḃ flata; ocus seoit do gaċ fla
ocus fos naċ noligann na ruti ro ní a los a toċas .i. a cruiḋ

Atait secht flata la feine na dlegait tocta saor giallna
aicillne 7 rl.

Ocus; scartar saor selba .i. cartar na forri go toċas is
feronn no is in flatamnas.

Ocus; fuirmiter t[igernas]do ced cor, sic mac flata.

Ocus; ar is anbal gaċ aon ar tuine tarraċtain .i. ar
anfial do gaċ aon tarraigter ina tuinid go innoligteċ;
flaiṫ gin toċus.

Ocus; maine maine fira faġbaiter .i. do ceiliḃ iar fir.

Ocus; manab a seota saora sernaiġter .i. uaḃa do ceilit

Ocus; Mac in abaid is in cill grinn,
Iní cunne for ciall,
Mac in trebṫi is in tuaiṫ,
Mac in ri do snaidm na ngiall.

A mo naire nuallgnaid .d. b. diamba breṫam, ni bera d
do neoch ro na bi bunaḋus bíḋ. Bi col mor ma conce
airilltea riaċ for focha dia fuirirtar la feine.

Fás fine fir nad nfasa; airm na bia fochla sreiṁ fiḋ c
cin mecna mes ina dos decmaic .i. is decmaic mes do beiṫ
dos mana fuil sreiṁ aigi.

Cesc—Caide an tanrruth? .Nín.—Anrruṫ aṫair ocus sena

I wonder at this, and that it, this is said: "The 'aire-forgill'-chief deserves a chieftainship or an abbacy; even though he had but his arms or his raiment he shall have the honor-price of a king or of an 'aire-forgill'-chief. And, also, the 'aire-ard'-chief saves the high 'nemhidh'-person with his territory, i.e. the price of his death shelters his king, and prevents them from being plundered by externs.

And: "It is not lawful for a chief to have swine."

And: "He is entitled to fat;" and, "the law styles that person a plebeian-chief who wishes to obtain a chieftainship in right of any other property except in right of tenants; and, by the tenants is fleshmeat supplied to the chie;" and "it is tenants that advance the grades of chiefs;" and "'seds' to every chief;" and "that these kings are not entitled to anything in right of their property, i.e. their cattle."

"There are seven chiefs with the 'Feini' who are not entitled to 'saor-giallna'-service or 'daor-giallna'-service," &c.

And; "scurthur ꞅaoꞃ ꞅelba," i.e. the inferior men with property are put into the land, or the chieftainship.

And; "lordship is compared to first contract;" thus, the son of a chief, &c.

And: "For it is shameful to anyone to be caught in unjust possession," i.e. for it is shameful to anyone to be caught in unlawful possession; thus, a chief without property.

And: "unless true property is obtained," by the tenants truly.

And: "unless they are noble 'seds' that are distributed, i.e. by him to the tenants."

And: "The son of the abbot in the pleasant church
"A fact established by sense,
"The son of the husbandman in the territory,
"The son of the king to bind the hostages."

O my Nairi of the beautiful aspect (ꝺ. b.) if thou be a judge, thou shouldest not give 'dire'-fine to one under whom there is no foundation of food *tribute*. It would be a great violation if fines were adjudged upon a title not found according to the Feini.

The tribe of a man is waste where is no growth; where there is no place for the root, where the fair tree wants a root, it is difficult to have fruit on its branches, i.e. it is difficult to have fruit on its branches unless it has a root.

Question—What is the 'ansruth'-poet? Answer. His father and his grandfather were 'ansruth'-poets,' for every grade whatever,

Suc-
cession.

air ar nach grad do cuisin itir flaith ocus file dia sgara
feib fri saogal trir; co roib diablad feibe no frichnama
ni ti a cosrand fri cach fris i tarraigter fri saogal tri

Tulaċ tiġearnais a t[iġearnas] triar, ocus urdliġiḋ r
tri flata f[laiṫeaṁnus].

Ansruth trath .i. ansruṫ athair ocus a seanathair,
ansruth feisin. An a aircedal ocus a friċnam, ocus s
dire caich as a dan becc mor nexamail bes aigi, ciḋ mo
beg .i. do breṫemnastar eneclann do cach.

Ocus; amail folaig mes airilled ard .i. amail imfuil
airilled is faoi mesemnaiġter eneclann doo.

Manab eisinnraic anfoltaċ, esraċ tuaithe ard saiġeḋ
ṫem do mes coir gaċa dula deis .i. is do ro saiġeḋ in br
do mesemnugad in dire is coir in gaċ duil.

Ocus; a Morainn, a maoiniġ, a moċtaig, comortar uait
teċta gaċ nemṫesa nair.

Drengait ina cataib .i. dreimniṫar eneclann doib fo ua
toċus ocus a ngraiḋ.

Ocus; cach nemi ina foltaib cora .i. im toċus ocus im in
cus.

Ocus; a morainn a maoinig, a moċtaig, mesar gaċ aon
nairilltin, fuirmiter cach iar na miadh, miaḋ caċ iar na co

Ocus; foserrnar sir focal .i. is maiṫ sernaiter in suṫi
cal so.

Ainsiṫar gaċ necnaithi .i. tainsiṫar é o bias caċ ga ec
im aois ocus im innracus.

Ocus; ecnaiṫi gaċ nainṁeċ .i. is ecnaiṫi is in flaiṫemnu
bos ainṁeċ é gin toċus.

Ocus; ni lenaḋ faiḋlenna saiḋe .i. noċa lenaḋ a snaiṫe
na hib lennaib, o bentar dib iad; sic cé do bí, muna fuil a
noċa ferde riam.

Ocus; ni faol feidm foirne sainnel sas .i. noċa niumfuil
si nert a foirne uirre o bias sas .i. imṫa samlaid in ti bi
toċus, ni fuilgenn in tuaṫ.

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[1] *After three Kings.*—The text of this paragraph is very defective.

Succession.

whether chief or poet, if he parts with his qualification during the ages of three persons, his lot is not equal to those who are found in possession of their qualification during the ages of three persons until they double their qualification or their service.

Hill of lordship is *established* after three have followed in succession, and the privilege of *succeeding* a king after three kings.[1]

An 'Ansruth'-poet now, i.e. his father and his grandfather were 'ansruth'-poets, and he is an 'ansruth'-poet himself. Noble his honor-price and his superintendence, and he gets 'dire'-fine out of every poem, small, large, or various which he has, whether large or small, i.e. honor-price has been adjudged to each *of his poems.*

And: "As he sustains the estimation of high wages," i.e. as he sustains the merit it is accordingly honor-price.is estimated for him.

"Unless he is an unqualified wanton, unworthy of a territory, he may seek the Brehon to estimate the 'dire'-fine which is proper for each animal," i.e. it is he that seeks the Brehon to estimate the 'dire'-fine that is due for each animal.

And; "O Morann, O wealthy dignitary, let the lawful 'dire'-fine of each noble dignity be adjusted by thee."

"They advance into their dignities," i.e. honor-price is graduated for them according to the nobleness of their property and their grade.

And; "Every 'neimhedh'-person *should be* possessed of his proper qualifications," i.e. as to property and worthiness.

And; O morann, O wealthy dignitary, every one is estimated according to his desert, every one is placed *at the court or banquet* according to his dignity, every one's dignity is according to his grade.

And; "A constant word (*by-word*) is circulated," i.e. it is well this constant word is spread about.

And; "Every person complained of is reproached," i.e. he is reproached when all are complaining of him as to age and worthiness.

And; "Every blemished person is complained of," i.e. he is complained of *for being* in the chieftainship, when he is blemished, and without property.

And; "a hem does not follow mantles," i.e. their threads do not follow the mantles when they are cut off them; so, though a man *has had means,* if he has them not now, he is no better thereof.

And, "A waste cannot support its wandering tribe," i.e. it cannot support the weight of its colony, when it is waste, i.e. so also is the person who is without property. He is not the better of having had it before.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

And; "Let no wandering men pass judgment," i.e. there shall be no honor-price for the person who is wandering about without property.

And; "It renders good for property well disposed of, it renders evil for ill-disposed of property," i.e. evil is rendered unto the wicked, *i.e.* to the unlawful persons who do not do good with their property.

And, "It is in the 'Senchus Mór' it was enacted that good should not be given to bad, nor bad to good," i.e. small honor-price and large honor-price. And, "It is in it, it was enacted *that there should be* king and peasant, queen and non-queen, noble and ignoble, wealthy and not wealthy, prosperous and not prosperous." Prosperous, i.e. good ('so') property ('ana') i.e. he has goodly property, i.e. in property and children. And; "there is found the noble wealthy, rich and prosperous; and there is found the ignoble, there is found an daer, &c." And, "It is in it, it was ordained that the '*dire*'-fine of each person should be according to his dignity."

And, "*Seim ainim og naithi, mana ciast ceird*": "No unproductive person merits a share with the Feini," i.e. the person who is barren, without property, without worthiness, does not merit a noble share of 'smacht'-fine nor sick maintenance, according to the 'Fenechus'-law. And "Because any one who has not his property in the territory does not merit sick maintenance or full peace with the Feini."

A contract, i.e. between two persons. A covenant, a thing confirmed by sane adults and guarantees, and this is difference[1] between them.

The senior goes not before the junior, unless he (*the senior*) is proclaimed, or otherwise disqualified.

Senior and junior, and honor-price are to be estimated for all.

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[1] *The difference.* That is, this is the difference between the two terms: A 'cor' is a bargain made between two persons without bond or security; a 'cunnradh' is a guaranteed contract.

INDEX.

'Abad'-gains: 63.

Abbot: covenant of a, with monk not binding, 55.

Abduction: incurs 'dire' fine, 271.

Absconder: 'eric'-fine for an, by whom paid, 241, 259, 261.

Accidents: protection of cattle against, 101

'Achlaidh'-covenant, 57.

'Acus': 129.

'Adaltrac'-women: 43, 45.

Adoption:
  contract of, when not binding, 61.
  regulations regarding, 289.

Adze: in a chief's house, 311.

Aftergrass: trespass into, 91.

Age: proverbs as to, 373, 377.

'Aircenn'-lands: 127.

'Airchinnech': steward of the church lands, 68, 69.

'Aire': a common name for a gentleman of any rank in society, 299.

'Aire-ard'-chief: description of, 299, 321, 323, 325, 345, 347, 383.

'Aire-coisring'-chief: 299.
  why so called, 317.
  full description of, 319.

'Aire-desa'-chief:
  the inviolable precinct of a, 227.
  description of, 299, 321, 345, 349.

'Aire-echta'-chief:
  one of the social grades, 299.
  description of, 321, 323.

'Aire-fine'-chief: 345.
  description of, 349.

'Aire-forgaill'-chief: description of, 299, 321, 327, 345, 347, 383.

'Aire-tuise'-chief:
  one of the social grades, 299.
  description of, 321, 325, 345, 347.

'Airem': 32.

'Airgsin'-trespass: 99.

'Airlim'-trespass:
  fines for, 81, 85, 91, 93, 103, 105, 109, 115, 139.
  not liable to fine in certain cases, 93, 95, 105.
  by sheep, 109.
  by pigs, 109.
  by bees, 115.

'**AIRLIS**'-**ENCLOSURE**: *i.e.*, a yard, 313.

'**AIRM**': 129.

'**AITHECH**'-**PERSON OR TENANT**:
- the plebeian, 299.
- not entitled to malt, 317.
- full description of, 317.

'**AITHGIN**': *i.e.*, compensation for trespass, 109.

'**AITREBADH**'-**TRESPASS**, 99.

'**ALBANACH**': a native of Alba; an ancient name for the south of Scotland, 285.

ALDER: a common tree, 147.

ALE: cask of, in a chief's house constantly, 311.

ALE-HOUSE: part of a king's establishment, 341.

'**ALLABRIG-NAIE**': *i.e.*, a sufficiency for the chief at a feast, 165, 167, 175, 177.

'**AN**'-**TRESPASS**: 99.

'**ANA**': 387.

'**ANABRA**'-**GOODS**: definition of, 37.

'**AN DAER**': 387.

'**ANDOIN**'-**CHURCH**: 339.

'**ANFLAITH**'-**CHIEF**: 317.

'**ANNLANN**': anything taken with bread, viz., butter, sauce, bacon, 118.

'**ANSRUTH**'-**PERSON**: 345.
- description of, 349.

'**ANSRUTH**'-**POET**: 357, 359.
- description of, 383, 385.

ANTIQUARY: stake-fences settled by oath of, 143.

APPLE:
- a chieftain-tree, 147.
- what gives it dignity, 151.

ARABLE LAND:
- three divisions of, 277.
- description and characteristic of good, 277.
- price of, 279.

'**ARADH**'-**TRESPASS**: 99.

ARBITRATORS: in unlawful grazing cases, 49, 95.

ARBUTUS: a shrub-tree, 147.

ARMY: case of a man wounded in the van of an, 179.

'**ARRA**'-**GOODS**: definition of, 37.

ARSON: fine for, 235.

ARTISANS:
- certain days assigned to, for grinding, 217, 219.
- maintenance of, 333.

ASH:
- a chieftain-tree, 147.
- what gives it dignity, 151.
- in arable lands, 277.

Aspen: a shrub-tree, 147.

Attack: liability to service of defence and, 145.

'**Aurrach' taxes**: 337.

Autumn: smacht fines payable in, 79, 89.

Axe-land: in which everything grows freely, 277

Axle-trees: made of holly-wood, 151.

Badgers: 'smacht'-fines for, 121.

'**Baitse'-tenant**: 345.
    description of, 353.

Baking Implements: used by woman in taking possession of land, 9.

Baking: woman's, equal to half man's, 306.

Bar: requisite for making a stone wall, 73.

'**Bas-loc**':
    i.e., a deadly place of murrain, 7.
    distress not taken in, 7.

Bathing-basin: in a chief's house, 311.

Battle: defeat in, proof of king's falsehood, 53.

Beard: the encircling of a, necessary before an oath takes effect, 303.

Bed:
    pledge of co-tenancy to be placed at feet of the, 75.
    'eric'-fine of criminals upon his, 241.
    of what is lawful and unlawful as regards a, 315.

Bees:
    'smacht'-fines for, 115.
    division of the honey of, 115.
    swallowing of, by hens, 117.
    additional pledges for, 163, 177.
    their trespass, crime, and produce, 163.
    produce of, how divided, 163.
    entitled to three years' exemption from fine, 165.
    swarms of, tribe-property, 165.
    the 'cain-cuisc,' 165, 167, 175.
    the 'allabrignaic,' 165, 167, 175.
    'the longing of disease,' 165, 167, 175.
    distribution of swarms of, 167, 173.
    'merraighe'-swarm of, 173.
    the necessity of watching, 175.
    injury by, 177, 179.
    a particular bee-judgment, 179.
    in the tree of a noble dignitary, 181, 183, 185, 187.
    produce of, how divided, 181, 185, 195, 197.
    rights of original owner of, 183.
    that have migrated, not protected by 'nemedh,' 185.
    watching and dividing swarms of, 191, 193.
    in a lawful green, 195.
    kept in a herb-garden, 199.
    penalty for stealing, 199, 201, 203.

Bee-judgments: 163–203. See also Bees.

'**Bescna**': 33.

'**Biatach'-land**: 45.

Bill-hook: requisite for making a 'felmadh' fence, 73.

Birch: a common tree, 147.

Birds:
- 'smacht'-fines for pet, 115.
- trespass by, 117.

Bishop:
- a gift to a, 211.
- a meeting of, at Sliabh Fuaid, 227.
- the precinct of a, 229.
- retinue of a, 339.
- penalty for wounding, 363.

'**Bithbinche**': 117.

'**Bithtuisi**': 373.

Blackthorn:
- used in making fences, 113.
- a shrub tree, 147.
- absence of, sign of good arable land, 277.

Blight: of fruit, proof of king's falsehood, 53.

Blister-fine: 345, 347.

Blotches:
- the effect of biased judgment, 10, 15, 17
- how cured, 17.

Blush-fine: 345.

'**Boaire**'-**chief**: 45.
- settlement of stake fences left to, 143.
- estimation of his inviolable precinct, 227.
- one of the social grades, 289, 299, 309.
- description of his property, etc., 311, 313.
- general description of, 351.
- the wealthiest takes precedence, 379.

'**Boairech**':
- list of property of, 311.
- divisions of, 321.

'**Boaire-febhsa**'-**man**:
- a division of the 'boaires,' 299.
- why so called, his position, etc., etc., 309.

'**Boaire-gensa**': 311.

Bodies: a cutting before dead, 155.

Body-fine:
- for killing, 247, 253.
- division of, 259.

Bog-myrtle: a bramble-tree, 149.

Bondman: covenant of a, with his chief not binding, 55, 209.

Boundary-marks:
- twelve, viz., flat-mark.
  - stone-mark.
  - tree-mark.
  - deer-mark.
  - stock-mark.

BOUNDARY-MARKS—*continued.*
mound-mark.
division-mark.
water-mark.
eye-mark.
deflet-mark.
way-mark, 143, 145.

BRAMBLE-TREES:
list of, 149.
'dire'-fine for, 149.

BREACHES:
definition of, 127.
some, not sued for, 155.
all, to be closed, 155.

BREHONSHIP: the exercise of, 283.

BRIAR:
a bramble-tree, 149.
absence of, sign of good arable land, 277.

BRIDGE:
an old, under water, a boundary mark, 143.
'cain' law of, 211.
ditch at a, 221.

BROOCH: part of the insignia of a chief, 323.

BROOM: a bramble-tree, 149.

BROTHER:
bears crimes, how long, 243.
divides chattels, 259.

'BRUGHAIDH': 331.

'BRUGHAIDH'-FARMER: 195.

'BRUGHAIDH'-MEN: 317.

BRUIGHRECHTA-LAWS: 49.

BULL:
common pasturage of, 101.
trespass in driving a cow to, not sued for, 157.

'BUNCHOR'-BAND: *i.e.*, bands of ozier interwoven between fluces, 112, 113.

BURDOCK: absence of, sign of good arable land, 277.

BURNING:
case of, by inadvertence, 251.
intentional, 253.

BUTTER:
certain grades no entitled to, 301.
part of sick-attendance, 307.

'CAIN CUISC': *i.e.*, the rule of 'the drink from the hive', 165, 167, 175, 177.

'CAIN'-LAW:
fine according to, 25.
of water, 211.
Brehon must know the, 285, 323.

'CAIN'-PARTY: of a king, 381.

'CAIRDE'-LAW: 3, 323.
  "running" of, 235.

'CAIRDE'-REGULATIONS: of a king, 381.

CAKES: as fines for hens trespassing, 117.

CALF:
  the rent for land taken till the end of the year, 91.
  common pasturage of, 101.
  when, gores calf, 103.
  trespass of, 105, 109, 111.

'CANA'-POET: 357.

CANDELABRA: in a chief's house, 311.

CATHEDRAL: 2,000 paces the precinct of a noble, 229.

CATTLE:
  trespass of, in co-tenancy, 75, 83, 85, 87, 105, 125, 139, 147.
  herding of, 85, 97.
  protection of, from accidents, 101.
  common-pasturage of, 101, 103.
  wounding of, by fierce cattle, 103.
  feeding of, in pound, 107.
  mangling of, by dogs, 123, 179.
  subject to farm-law, 125.
  crossing a river or road, 127.
  threefold trespass of, 147.
  trespass of, how estimated, 147.
  stealing, 271.

CAULDRON:
  test of, tendered by certain classes, 285, 295.
  found in a chief's house, 311.

CHARCOAL: a sack of, always in a chief's house, 311.

CHARIOTS: axletrees of, made of holly, 151.

CHATTELS:
  'eric'-fine falls first on the criminal's, 241.
  division of, among father, son, brother, and family, 259.
  theft of live and dead, 271.

CHIEFS:
  covenant of, with bondman not binding, 55.
  may rescind contracts and annual covenants, 55.
  covenant of a servitor of, defective, 55.
  honorprice of, how lessened, 57.
  covenant made without knowledge of, 61.
  bees swarming into the tree of, 181.
  gift of, to the tenant, 211.
  a meeting of, at Sliabh Fuaidh, 227.
  'eric'-fine for absconding criminal falls on, 241.
  how far chargeable for crimes, 245.

CHIEFTAINSHIP: succession of, 373–387.

CHIEFTAIN-TREES:
  cutting, a man-trespass, 147.
  list of, 147.
  'dire'-fine for cutting, 147, 149.

CHRIST:
  men of the gospel of, 211.
  prophecy regarding, 219.

CHURCH:
  without a green, no distress on, 7.
  may rescind contracts and annul covenants, 55.
  covenant with a subject of a, defective, 55.
  violation of 'nemedh'-person's, by cattle, 87.
  notice to be given at the, when horses found trespassing, 107
  to have a share of a find of bees, 195.
  not to be defrauded of what it merits, 197.
  conducting water over 'nemedh' land of a, 215.
  grades, their inviolable precincts, 227.
  protects sinners, 235.
  power of, to allow culprits to escape, 237.

'CILL'-CHURCH: the ditch of a, 221, 373.

'CLEITH': 349.

CLIFF: running-over a, 139.

'CLI'-POET: 357, 359.

'COARB':
  i.e. heirs or keepers of the land, 103, 129.
  bound by the laws of their ancestors, 213.
  of Patrick, his inviolable precinct, 227.
  proverb as to, 267.

'COIBHUE'-PROPERTY: 31, 39.

'COIR-FEINE-BEC': the law called, 103.

'COIR FEINE'-LAW: a law of adjustment by which the agricultural classes settled their cases of damage and trespass of cattle, 241.

COIRPRI LIFECHAIR: 267.

'COLPACH' HEIFER: 83 *et passim.*

COMBAT: without verbal engagements, illegal, 33.

'COMHARBA': female, 289.

'COMMAITH': 69.

COMMON PASTURAGE:
  the nature of, 101.
  how arranged, 101, 103.

COMMON-TREES:
  list of, 147.
  'dire'-fines for, 147.

COMPENSATION:
  for damaged grass, 49, 83.
  when lost through neglect, 51.
  for injury done by fences and stakes, 73, 75.
  for trespass on grass and corn. 87.
  for pigs trespassing, 109, 111.
  for bees trespassing, 115.
  for dog-trespass, 123.
  for cutting trees, 149, 151.
  for cutting land, 153.

COMPENSATION—*continued.*
  meaning of, 229.
  in case of violated protection, 233.
  "running" of, 235.
  for necessary killing, 245.
  for burning, 253.
  how divided among a family, 259.
  for milk, when cattle are stolen, 271.
  double, for theft of chattels, 271.

CONTRACTS:
  good and bad, subject to be rescinded by chief, tribe, and church, 55
  of adoption, when not binding, 61.
  nine, dissolved by the Feini, 207, 209.
  must have surety of the tribe, 207.
  seven noble, not easy to dissolve, 211.
  distress on kinsman's cattle, in cases of, 265.
  unfair, set aside, viz.—'force,' 'claim,' &c., 'forfeit' contracts, 269.
  verbal, in adoption, by whom given, 285.

COPPER: a mine of, how valued, 279.

'COR': *i.e.* a bargain made without bond or security, 387

CORN: scarcity of, proof of king's falsehood, 53.

CORNLAND: trespass in, 79, 83.

CORNSTACKS: trespass by hens in, 117.

'CORUS'-ARRANGEMENTS, 327.

'CORUS'-LAW, 335, 337.

COSHERING: *i.e.* feasting, 325, 327.

'COSLAITHE'-CATTLE: common pasturage of, 103.

CO-TENANCY:
  why so called, 69, 75.
  whence does it arise, 69.
  what comes foremost in, 71.
  how made, 71.
  trespass of cattle in, 75.
  duties of, 75.
  pledges of, 75.
  trespass in, 79–159, see trespass.
  fines in a, 139.
  right of water in the, 213.

CO-TENANT:
  means also co-tiller, or co-grazier, or co-occupant, 75.
  entitled to right of way, 157.
  bound to permit other co-tenants to draw water, 213.

COVENANTS:
  the right of, 33.
  suing upon, 35.
  parties appointed to dissolve, 35.
  four, not binding, 55.
  three defective, 55.
  three difficult, 55.
  ternal, 55.
  three, not amounting to the thing stipulated, 57.
  'achlaidh,' 57, 59.

COVENANTS—*continued.*
  three bad, not binding, 61.
  definition of, 387.

'COW-GRAZIER': description of, 353.

COWS:
  to be offered in taking possession of land, 21, 25.
  dryness of, proof of king's falsehood, 53.
  a herdsman necessary for, 87.
  should be in cow-fastness by night, 97.
  common-pasturage of, 101.
  trespass of, in common-pasturage, 105.
  keeping of, in pound, 107.
  may trespass in three places, 125.
  hair of, boundary mark, 143.
  trespass in driving of, to a bull not sued for, 157.
  stealing, 271.
  the price of arable land, 279.

CREAM: pure new milk, part of sick-maintenance, 303.

CRITH GABHLACH: 299–336.

CRIMES: see also 'ERIC'-FINE:
  seven divisions of, 241.
  'eric'-fine for, fall upon the family in certain cases, 241, 243.
  of necessity, how paid for, 245, 247, 249, 265.
  all except killing go upon the criminals, provided they have means of paying, 245.
  unnecessary, accountable for first by criminal, 247, 269.
  definition of necessary and unnecessary, 249.
  every one dies for his wilful, 251.
  the land is forfeited for, 265.

CRIMINAL:
  'eric'-fine of, how levied, 241.
  family of, when liable, 243.
  liability of, shifts to chief, king, and law, 243.
  every crime to the, 259.
  leaving territory with 'seds,' 261.
  land of, forfeited for crimes, 265.

'CRUAN': a bridle of, 311.

'CRUID'-LAND: 15, 45, 47.

CRUMB-FOX: 345.
  description of, 335.

'CUMA': 69.

'CUMAIGNAIS': 69.

'CUMHAL': 25, 27, 91, 233, 235, 245, 251, 253, 259, 279, 289, 305, *et passim*
  'CUMHAL-SENORBA': 39.

'CUMRADH': *i e.*, a guaranteed contract, 387.

CUTTINGS:
  i.e., breaches or gaps, 154.
  certain, not sued for, 155.

'DAE'-PERSON: 345.
  description of, 349.

'Daer-bothus'-ship: 339.

'Daer-fuidher'-ship: 339.

'Daer-fuidher'-tenant: 285, 339.

'Daer'-man: 43.

'Daer'-stock: 197.

'Daer'-tenant: 197, 236, 237.

'Dairt'-heifer: 91, *et passim.*

Dam: 'cain' law of the, 211

Damages:
- how neutralized, 17.
- of possessions, 141.

'Damh-conchaidh' ox: 101.

'Daor'-cottiers: 381.

Daorgiallna-service: 383.

Daor'-person: 253.

'Daor'-tenancy: 267.

Darkness: a contract made in the, not binding, 209.

Daughter:
- land appropriated to a, by father, 45.
- obligation of, to rest on land to the tribe, 49.

Dearth: proof of king's falsehood, 53.

Death: shelter afforded by the church against, 237.

Debt:
- eric-fine for, 37.
- promises to pay, when forgiven, 39.
- shelter against unlawful claims for, 237.

Deer: 'smacht'-fines for pet, 115, 121.

Deer-mark: description of, 143.

Defect-mark: definition of a, 145.

Defence: liability to service of attack and, 145.

'Deirbhfine':
- a family division, 283.
- receive no share of tribe-land, 285.
- means red or fratricidal family, 287, 293.
- commentary upon the, 293.

'Deirbhfine'-division:
- *i.e.*, a family division, 51, 167, 173, 243, 245, 283, 285, 289.
- exact description of, 290.

'Deirbhfine'-relations: 241.

'Deis'-chief: 321.

'Deis'-right: 321.

'Deolaidh'-right: 163.

Deserter:
- *i.e.*, a landless man, a fugitive or evader of his duties, 128.
- treatment of, by the co-tenancy, 129, 131, 133.
- further definition of, and liabilities of a, 135, 137.

'Dibadh'-land: 93, 141.
  division of, 285, 291.

'Dibadh'-property: 247, 259.
  division of, among family, 285, 291, 293.

'Dide aire': 53.

Difficulty: meaning of the term, in cases of protection, 229.

'Diguin'-trespass: 345.

'Dire'-fine:
  paid for cattle trespassing, 91, 103.
  for dog-trespass, 121.
  stake-trespass, 145.
  for cutting chieftain-trees, 147.
  for cutting timber, 149, 169.
  for stealing bees, 199.
  for killing, to whom paid, 259.
  for theft, 271.
  double-great-, when paid, 273.
  must be know by the Brehon, 285.
  of an 'ogaire,' 307.
  of a tenant resident, 307.
  of a 'boaire,' 309.
  for breaking into a house, 311, 315.
  for a bed, 315.
  for grinding without leave, 315.
  for a barn and pigstye, 315.
  for using a hatchet, 315.
  for wounding bishops, 363, 365.
  for wounding priests and lay recluses, 367.
  how distributed, 379.

Disease: the longing of, 165, 167.

Distress:
  when not leviable on the Feini, 7.
  penalties in cases of unlawful, 9.
  illegal, when prosecuted by the Feini, 33.
  five 'seds' the fine for unlawful, 33.
  maxim of 'Finnsruth Fithil' law in forcible, 91.
  upon a diserter, 129, 135.
  upon a kinsman-surety for 'eric'-fine, 259.
  pledge of, illegal, 271.

Ditches:
  seven legal, 221.
  injuries to, 221.

Divisions of Land: 277–295. See Lands.

Division-mark: definition of, 145.

Doctor: when provided and paid, 301, 303.

Dog:
  'airlim' trespass before a, 93, 105.
  protection of cattle from, 101.
  'smacht'-fines for, 115, 121.
  trespass by, on the land of co-tenancy, 121, 123.
  feeding of, involves liability, 121.
  wild, 141.
  tearing cattle, 179.

'Donn': 381.

'Dormuine'-woman: 307.

'Dos'-poet, 357, 359.

'Draumche'-milk: 303.

Dripping-board: position of, in the 'ogaire's' house, 305.

Drunkenness: a contract of, not binding, 209.

'Duibhfine':
a family division, 283.
that which tenders the test of ordeal, 285.
means 'black family,' 287.
commentary upon the, 295.

'Duirime'-fence: formation of, 113.

'Dun'-fort:
without land, no distress on, 7.
trespass on a king's, 87.
notice to be given at, when horses caught trespassing, 107.
cuttings made at construction of, 155.
conducting water over the land of a, 215.
ditch of a, 221.
dimensions of a king's, 337.

'Duthracht'-person: 285.

'Eachlach'-person, 57.

'Ear': the clear knowledge, 291.

'Eces'-poet: 357, 359.

'Ecsmacht-ces': 359.

Elder-tree: a shrub-tree, 147.

Elm: a common tree, 147.

Engagement: a forced, unlawful, 271.

Entry:
with horses, 3, 5, 19.
what is good, 5.
men required for, 7.
how a woman takes possession by, 9, 11.
the customs of, 19, 21.
upon fenced lands, 21, 25.
illegal, when prosecuted by the Feini, 33.

'Eric'-fine: 33, 37.
when incurred by one, paid by all, 179.
for a church, 229.
for an absconding criminal, 241.
for necessary crimes, how raised, 245.
for life-wound, 249, 253, 255.
leniency in levying, 251.
for the foster-child of a family, 255, 257.
land must be given as, 267.

Eric-sod: 87.

'Errech' taxes: 337.

'Esain': 301, 307, 345, 347, 349, 351.

'Escra': a cup, 164, 165, 167.

'ESERT': 128.

EVIDENCE:
    of an 'ogaire,' 307.
    of a 'boaire,' 309.

EWES: use of, in a woman's entry on land, 9, 11, 13.

EXEMPTION: where a case of, arises, 229.

EXILE: (*i.e.*, non-native) absconding as a criminal is put upon the road, 243.

EYE: blinded by sting of a bee, 179.

EYE-MARK:
    a boundary, 143.
    definition of, 145.

FAIR: roads must be kept clean during a, 145.

FAIR-GREEN:
    water free in the precinct of a, 215.
    ditch of a, 221.

FALSE CHARACTER: forfeiture of honour by, 319.

FALSE CONTRACT: gain by a, a falsehood avenged by God, 53.

FALSE EVIDENCE: forfeiture of honour by, 319.

FALSE JUDGMENT: given for hire, a falsehood avenged by God, 53.

FALSE WITNESS: decision by, a falsehood avenged by God, 53.

FALSEHOODS:
    of a king, 53.
    three, avenged by God on a territory, 53.

FAMILY:
    a deserter's, duties of, 131, 133, 135.
    liable to pay after evasion of criminal, 243.
    liable for necessary crimes, 245.
    wounding the foster-son of a, 245.
    always liable for killing, 247.
    have choice of giving up the criminal or the land, 247.
    list of divisions of, 283, 285.
    at what point, relations cease, 285.

FAMILY-DIVISIONS:
    list of, 283, 290.
    definitions of, 285, 293, 295.

'FAOTH-FORAIS': 229.

FARM-LAWS:
    trespass in the, 89.
    described, 125.

FATHER:
    covenant of, with son not binding, 55.
    when nuptial present due to, 61.
    when responsible for son's 'eric'-fine, 241.

FAWNS: trespass of wild, 121.

FEAR:
    trespass in consequence of, 93.
    a contract of, not binding, 209, 269.

'FEIGH-ATHAIR': *i.e.*, the father of sharp art, 237.

Feini:
  the grade of, 19, 165, 177, 183.
  rule of, as regards the crime of one, 179.

Feinichus: 19.
  i.e., the usage of the law of the, 21.

'**Feis' trespass**: fines for, 81, 91, 103, 105, 139.

'**Felmadh-fence**': a bill-hook requisite for making a, 73.

Females:
  taking possession of land, 11, 13, 15.
  heirs of, claim on covenants, 39, 41, 45.

Fences:
  making of, in co-tenancy, 71.
  liable to conditions, 71.
  law of, and requisites for, 73.
  hatchet necessary for making strong, 73.
  construction, dimensions, and situations of various, 77.
  trespass over, 81, 83, 85.
  owner of land must have, 85.
  description of, lawful, 113.
  dimensions of, naked, 113.
  bad, lessen trespass, 127.
  must be made by deserter's next-of-kin, 129.
  what are lawful, in co-tenancy, 139.
  stake-, 141.
  settlement of stake-, by oath and prescription, 143.
  required for roads, 145.

'**Fene'-grades**: 355.

'**Ferfothla' chief**: why so called, 315.

'**Ferfothla' man**:
  a division of the 'boaires,' 299.
  why so called, 315.

'**Fer mbidboth'-man**: one of the social grades, 299.

Fern: a bramble-tree, 149.

'**Fialshai**': 359.

Field: bees settling in a, 185.

'**File'-poet**: 359.

'**Fine**' *i.e.*, the pure tribe, 290.

Fines:
  for entry on fenced lands, 25, 27, 29.
  for unlawful distress, 33.
  for unlawful entry, 33.
  for combat without verbal engagements, 33.
  for giving away property not one's own, 33.
  payment of, to be adjusted to ability of provisions, 37.
  not necessarily in any particular kind, 37.
  in copper, silver, or gold, only paid by a chief, 37.
  of law to a king, 51.
  for neglect of fencing, 73.
  for trespass in the co-tenancy, 81, 83, 85, 87.
  for trespass by animals, 83.
  for cattle violating church or sanctuary, 87.

Fines—*continued.*
  none in certain 'airlim'-trespass, 93, 95.
  for spoilt grass, to be paid by arbitration, 95.
  for goring and wounding by cattle, 103.
  for 'feis'-trespass, 105, 139.
  for 'airlim'-trespass by sheep, 109.
  for trespass of pet animals, bees, hens, and all birds, 115, 117.
  for dog-trespass, 123.
  for stakes-trespass, 141, 145, 153.
  for cutting timber, 147, 149.
  accepted by church from sinners, 235.
  for theft and unlawful possession, 269, 271.

'Findfine': 39.

'Finetacuir':
  a family division, 283, 285.
  i.e., the 'adopted sons,' 289.

'Finnsruth Fithil'-law: maxim of, in taking for able distress, 91.

'Fir-giallna': definition of, 35.

'Fir nanfir': 381.

Fire: ever living, in a chief's house, 311.

Fishing-weir: 213.

'Fituisi uilc': *i.e.*, the disease of evil, 378.

Flag: a boundary mark, 143.

Flagstone: trespass of a, 141.

'Flaith'-chief:
  i.e., an original landowner, 316.
  the grades of, 321.

'Flaithe-fine'-persons: *i.e.* tribe divisions, 283.

'Flaithem'-person: 346.
  description of, 351.

Flat-mark: description of, 143.

Flax: in good arable land, 277.

Flute players: part of a king's distinction, 339.

'Foach-tuaithe'-trespass: of cows, 125.

'Fochlocc'-poet: 357, 361.

'Fodaer'-person: 43, 285.

'Foessam': the custom of, *i.e.* of the adopted son, 207, 209.

'Foirge'-measure: 21, 127.

'Follsaidh'-trespass: 99.

Food: when 'cric'-fine falls on criminals, 241.

Food-rent:
  of a last survivor, 303, 305.
  of an 'ogaire' chief, 307.

Fools: proverb as to, dividing neglect, 85.

Foot: two hands in a, 277.

Forfeiture:
  of cattle for illegal entry, 27.
  of stock by 'raitech' persons, 31, 33.

Forge: notice to be given at, when horses trespass, 107.

'Forrach' measure:
  i.e., a measure of land containing about 552 yards, 139.
  six 'laits' in a, 277.

'Forus': of a 'flaith' chief, 321.

Fosterage:
  of a woman, 63.
  half the price of, to be paid on marriage, 63.

Foster-child: wounding the, of a family, 245, 255.

'Fothla'-trespass: 99.
  'smacht' fines for, 107.

Foxes: 'smacht' fines for pet, 115, 121.

Fratricide: in the family, 293.

Freeman: native, offences of, 153.

Friday:
  assigned for certain works, 217, 219.
  set aside by kings for horseracing, 335.

Fruit:
  blight of, proof of king's falsehood, 53.
  sowing and enjoyment of, how regulated, 169, 171.

'Fugitive: from the tribe not protected by 'nemedh,' 185.

'Fuidher-gabhla': 43.

'Fuidhir'-tenant:
  the tribe of inferior bondsmen, 39, 236, 237, 283.
  divisions of the, 287.

'Fuilmac'-pupil: 357.

Furniture:
  of an 'ogaire,' 307.
  of a tenant resident, 307.
  of a 'boaire,' 309, 311.

Furze: a bramble-tree, 149.

'Gabhail-fodagniat'-defendants: a tribe-division, 283, 285.

Gap, see also Cutting:
  trespass over a, by animals, 83, 87.
  breach over a, 127.
  every, to be closed, 155.

Geese:
  common pasturage of, 101.
  'smacht'-fine for, 115.

'Geilfine'-chief: 197.

'Geilfine'-division:
  i.e., a family division, 39, 167, 249, 259, 265, 283, 285.
  means 'white family,' 287.
  exact description of, 290, 291.

'Giallna'-service: 347.

'Giallna'-tenants: 321, 327.

Gifts:
  seven noble, 211.
  seven unlawful, 271.

'Glaisin'-dye-plant: probably woad, a characteristic of arable land, 276, 277.

'Glasfine':
  a family division, 283, 285.
  means 'green family,' 287, 291.

Goats: ties of leather for, when herding, 87.

Goods: reciprocity of, not enforced by law in certain cases, 129.

Gooseberry-tree: a bramble-tree, 149.

'Gormac': a sister's son, 42, 291.

Grades:
  church and lay, 227.
  invisible precincts of various, 227, 229.
  difference between precincts of ecclesiastical, 229.
  chieftain, bound to entertain without asking questions, 237.
  seven divisions of social, 299.
  the oaths, binding contracts, guarantees, evidence, honor-price, reflections, etc., of social, 299, 336.
  take service for land, 307.
  proportionate stock of, 307.
  protect each other, 307.

Grains:
  testing of, for smacht-fines, 95.
  three, to the inch, 277.

Grass:
  damage to, by cattle grazing, 49.
  injury to, decided by arbitrators, 49.
  compensation for damaged, 51.
  damaged, must be sued for before it grows again, 51.
  trespass by pigs, calves, etc., on, 109, 111.

Greyhound: part of a chief's establishment, 327.

Grinding: the week days arranged for, 217.

Grinding-stone: in a chief's house, 311.

Guarantee:
  of an 'ogaire,' 307.
  of a 'boaire,' 309.

Harlot:
  nuptial present to a, 57, 209.
  'abad'-gains of a, shared by head of tribe, 63.
  contract of a, not binding, 209.
  a tribe-division, 291.

Harpers: part of a king's distinction, 339.

Hatchet:
  requisite for making a strong fence, 73.
  in a chief's house, 311.
  'dire' fine for using, 315.

Hawks: 'smacht'-fines for, 115, 121.

Hawthorn: a common tree, 147.

Hazel:
  a chieftain tree, 147.
  white-, a shrub-tree, 147.
  what gives it dignity, 151.

HEADLANDS:
  fine for running-over three, 137, 139.
  definition of the, 139.
HEAT: *i.e.*, sultriness, trespass in consequence of, 93, 105.
HEARTH: certain crimes go upon the nearest, 247, 249.
HEATH: a bramble tree, 149.
HEAVEN: men of, *i.e.*, churchmen, 211.
HEIRS: proceedings of, in co-tenancy, 69.
HENCHMAN: description of a, 353.
HENS:
  a hood necessary for, 87.
  'smacht'-fine for pet, 115, 17, 119.
  three trespasses by, 117.
  rag-boots and spancels for, 119.
HERBS: sweet, characteristic of good arable lands, 277
HERB-GARDEN: regulations as to bees kept in a, 199.
HERD: trespass by a, how estimated, 109.
HERMIT: the inviolable precinct of a, 229.
HERONS: 'smacht'-fines for pet, 115, 121.
HIGHWAY: adds to the price of land, 279.
HIRE: land let out on, in case of a deserter, 135.
HIVES:
  lots to be cast upon, in case of injury by bees, 179,
  swarms from, how divided, 191.
HOG: the snout of a rooting, a dish at a chief's table, 311.
HOLLY:
  a chieftain-tree, 147.
  what gives it dignity, 151.
HONEY: found in good arable land, 277.
HONOR: how forfeited by a grade, 319.
HONOR-PRICE:
  when given and by whom, 15, 47, 48, 49.
  for bees, 201.
  for violation of protection, 231.
  for killing, wounding, 233, 235, 253, 255.
  divisions of, in 'urrudhus'-law, 235.
  without having absconded, 257.
  Brehon must know tribe's, 285.
  of a 'midboth'-man, 301.
  of an 'ogaire' how estimated, 307.
  of a 'boaire,' 309.
  how graduated, 385, 387.
HORNBLOWERS: part of a king's distinction, 339.
HORSES:
  the use of, in taking possession of land, 3, 5, 19.
  the use of, in testing the trespass of swine, 97.
  should be in stable at night, 97.
  trespass of, 105, 107.
  feeding of, in pound, 107.

Host: cuttings made made in flying before a, 155.

Hostages: necessary for a king, 51.

Hound, see **Dog**.

House:
  trespass by hens in, 117, 119.
  description of an 'ogaire's', 305.
  description of an 'boaire's', 309.
  description of an 'mbruighfher's', 311.

'**Iarfine**':
  a family division, 43, 167, 243, 283, 285.
  exact description of, 290.
  commentary on the, 293.

'**Idha**': a species of tree, conjectured to be a pine, 147.

'**Idhna**'-**person**: 345.
  description of, 349.

Idiot: contract of, with a sane person not binding, 209.

Ignorance:
  does not increase 'dire' fine, 229.
  meaning of, in cases of protection, 229.

Illegalities: prosecuted by the Feini on three occasions, 33.

Imbeciles: possession of land shall not be sued for by,

Impotency: does not increase 'dire'-fine, 229.

Inadvertence: does not increase 'dire'-fine, 229.

Indemnification: pledge of, by heirs in co-tenancy, 69.

Inches: six, in a hand,

'**Inchis**': a house of, *i.e.*, a house built for an aged man of the family, 305.

'**Ingen ar meraibh**':
  a family division, 283.
  definition of, 285.

Injuries: to ditches, 221.

Innate Rights: a hoard of bees, one of the, 195.

'**Innfine**':
  a family division, 43, 167, 207, 283, 285.
  exact description of, 290.
  commentary upon the, 293, 295.

'**Inntrit**'-**measure**: six paces in a, 277.

'**Innua**': a sub-division of family, 293.

Iron: mine of, how valued, 279.

Island: no distress taken on, to which cattle are brought, 7.

Ivy: a bramble-tree, 149.

Judgments:
  bee, 163.
  of top and trunk of trees, 167, 189.
  of drawing water across land, 167.
  wood, 169.

Judgments of Crimes: 241–273.

Jugglers: part of a king's distinction, 339.

KILLING:
  necessary, 245.
  whole family liable for, 247.
  body-fine for, 247, 253.

KILNS:
  trespass of hens in, 117.
  using, without leave, an offence, 315.

KINGS:
  where no Brehon, every dispute is brought before the, 51.
  hostages, rent, smacht-fine necessary for a, 51.
  must be free from falsehood, betrayal, and unworth conduct, 51.
  falsehood of, 53.
  the three commons of a, 195.
  a gift to a, 211.
  extent of his inviolable precinct, 227.
  'eric'-fine of a criminal on the, 241, 243.
  one of the social grades, 299.
  a 'tanaise' of a, 299.
  divisions of, 329, 331, 345.
  rights, benefits, spendings, pledging, actions, and hostings of, 333, 335.
  qualities necessary for, 335.
  seven weekly occupations of, 335.
  fastings of, 337.
  arrangements, etc., of houses of, 339.
  verses descriptive of, 341.
  the succession of, arranged by seniority, 373.
  for what qualifications selected, 377, 379.
  varieties and precedence of, 381.

KINSMAN:
  suing for 'eric'-fine, 261.
  seizure of cattle of, 265.
  liabilities of, for crimes, 265.

KITCHEN: breaking into a, 315.

KNEADING-TROUGH: used by a woman in taking possession, 9.

KNIVES: for reaping rushes, 311.

KNOWLEDGE: meaning of, in cases of protection, 229.

'LAIT'-MEASURE: six 'intrits' in a, 277.

LAKE:
  a boundary mark, 145.
  finding bees near a, 195.

LAMBS: common pasturage of, 101.

LANDS:
  on which there are plunderers, no distress, 7.
  estimated according to amount of stock and property, 39.
  title to, affects the descent to the son, 45.
  descent of, to sons from mothers, 45.
  division of, by tribe, 45.
  given up for roads, 45.
  'cruib' or 'sliasta,' how dealt with, 45.
  refection, 49.
  division and fencing of, in co-tenancy, 71.
  trespass on, estimated by rent, 95.
  trespass by dogs on, 123.

Lands—*continued.*
subject to farm laws, 125.
offer of, to a deserter, 137.
profits of, 147.
cutting of, a man-trespass, 151.
certain cuttings of, not sued for, 155.
trespass of bees on, 163.
neighbouring, their rights as to bees, 165.
swarms of bees go according to divisions of, 165, 173, 189.
bees settling on, 191. See **Bees.**
right of water in, 207, 211, 213.
'innfine' and 'deirbhfine,' 207.
hard to conduct water over three, 215.
price of water on certain, 213, 215.
ditches made in, 221.
a man is better than, 247.
forfeited for crimes, 265, 269.
shall not be sued for by imbeciles, lepers, 271.
various divisions of, 277.
characteristics of arable, 277.
characteristics of weak, coarse, and deep, 277.
measurement of, 277.
price of various kinds of, 279.
of an 'ogaire'-chief, 305.
of a 'boaire'-chief, 309.
of a 'mbruighfer,' 311.

Lawful Green:
definition of, 195.
finding a stray swarm of bees in a, 195.

Laws:
maxim as to constancy of old Brehon, 51.
to be without, proof of king's falsehood, 53.

Lay-recluse: three kinds of, 367.

'**Leacla**': 151.

Lepers: possession of land shall not be sued for by, 271.

'**Lethflaithem**'-**person**: description of, 351.

'**Lias**'-**house**: *i.e.*, a cow or sheep house, 313.

Linen cloth: to wash foulness from a person's honour, 319.

Lintels: the breaking of, 315.

'**Lis**'-**fort**: fine for trespass on a, 313.

'**Lis martradh**'-**fort**:
probably a churchyard, 86.
trespass on a, 87.

Literature: professors of, 355, 357.

'**Loarg**': 315.

'**Mac airbe**': 361.

'**Macfuimidh**'-**poet**: 357, 361.

Mallet:
use of in making fences, 113.
in a chief's house, 311.

MALT: a sack of, always in a chief's house, 311.
MAN:
    who follows bees in their flight, his rights, 181, 183
    who has stained his weapon with blood, 185.
    who has fled from maintaining his father, 185.
    who has left plunder behind, 185.
    who watches a swarm of bees not his own, 191.
    who find bees in a tree in a lawful green, 195.
    who find bees in various other places, his share, 195
    'airlim'-trespass in flying from, 93, 95.
    trespass of, in co-tenancy, 139.
    is better than land, 247.
MAN-TRESPASS:
    fines for, 83, 85, 87.
    various kinds of, 99.
    fine for, lies against hens, 117.
    by dogs, 123.
    description of, 147.
'MANACH'-PERSON: contract of a, not binding, 209.
'MANCHAINE': 381.
'MANSLAUGHTER, see 'ERIC'-FINE:
    necessary crime of, 245, 247, 249, 265, 269.
    treatment of one who has committed, 303.
MARRIAGE:
    nuptial presents on, 61, 63.
    payments by women on, 63.
'MARSH'-MAN: 345.
    description of, 355.
'MATERIES': 373.
MATRIMONIAL CONTRACT: a woman who has fled from, 185.
'MBRUIGH-FHER'-MAN:
    a division of the 'boaires,' 299.
    why so called, his position described, 311.
MEADOW: trespass into a profitable, 91.
MEASUREMENT: table of linear, 277.
MEERS, see BOUNDARY-MARKS.
'MERRAIGHE'-SWARM: of bees, 173.
'MIDBOTH'-MEN:
    two kinds of, 301.
    description of, etc., 301, 303.
'MIDHLACH'-MAN: 345.
    description of, 353.
MILK:
    compensation for, where cattle are stolen, 271.
    forms part of food-rent, sick-maintenance, and reflections, 301, 307.
    a cask of, in a chief's house constantly, 311.
MILL:
    trespass by hens in a, 117.
    ruin of a, a boundary mark, 143.
    cuttings made at the building of, 155.
    water free upon land near a, 215.

Mill—*continued.*
  the rotation of work at the, 217, 219.
  adds to the price of land, 279.

Mill-pond: ditch of a, 221.

Mill-race: ditch of a, 221.

Mill-tribute: 219.

Mine: adds to the price of land, 279.

Mire: must be removed from roads in time of war and of a fair, 145.

Monastery: a way leading to a, how valued, 279.

Monday:
  assigned for certain works, 217, 219.
  set aside by kings for judgment, 335.

Monk: covenant of a, with abbot not binding, 55

Moor: cows may trespass in a, 125.

Mother: lands of, how divided, 45, 47.

Mound-mark: description of, 143, 145.

Mountain:
  one of the three commons of a king, 195.
  adds to the price of land, 279.

Mountain-ash: a common tree, 147.

Mountain-field: trespass in, 79.

Movables: liable first in payment of crimes, 247, 249, 265, 269.

'Mucleithe' chief: 323.

Mugs: in a chief's house, 311.

Necessity:
  crimes of, such as killing a man in self-defence, 265.
  excuses running-over headlands, 137.
  excuses breaches, gaps, and cuttings, 155, 157.
  crimes of, how paid for, 245, 247, 265.

Needle: swearing from a, to a heifer, 301.

Neighbour: appraisement of cattle-trespass by a, 147.

'Neimhe'-cattle: exempt from seizure, 265.

'Neimhe'-property: does not perish, 273.

'Nembeoil': 303.

'Nemces': 359.

'Nemedh'-person: 7, 181, 183, 185.
  of God, *i.e.*, the ecclesiastical dignitary, 185.
  of man, *i.e.*, the lay chieftain, 185.
  contracts against, not binding, 375.
  shelter to, 383.

Notice:
  service of, in taking possession of land, 3, 13, 15.
  by women in taking possession of land, 3, 15, 23.

Notice to Quit: on a deserter, 133.

Nuptial Presents:
  to an 'eachlach'-person, 57.

- Nuptial Presents—*continued.*
  - to a harlot for her divorce, 57, 209.
  - to a woman, 57, 61.
  - portions of, due to the head of tribe, 63.
  - general distribution of, 63.
- Oak:
  - ancient, a boundary mark, 143.
  - a chieftain tree, 147.
  - what gives it dignity, 149, 151.
- Oats: used for 'smacht'-fine.
- Oaths:
  - stake-fences settled by, 143.
  - of various social grades, 301.
- 'Ogaire'-chief: 289, 299.
  - why so named, 305.
  - description of his property, his position, 305.
  - his proportionate stock, and food-rent, 307.
- 'Ogflaithem'-person: description of, 351.
- 'Ograth': 279.
- 'Oinmit'-man: 315.
  - description of, 353.
- 'Ollamhs':
  - a meeting of, 227.
  - description of, 355.
- 'Ollamh'-poet: description of, 359.
- 'Oman'-plant: absence of, sign of good arable land, 277.
- Onions: part of the food of a 'boaire,' 311.
- Oratory: cuttings made at the construction of, 155.
- Ordeal: test of, 285.
- Oxen:
  - common pasturage of, 101.
  - feeding of, in pound, 107.
- Pace: six feet in a, 277.
- Palisade:
  - trespass by cattle over a, 125.
  - trespass of, 139.
- Passage:
  - trespasses and fines in respect of a, 141.
  - co-tenant between two lands entitled to full, 157.
- Pasture land: trespass in, 79.
- Penalties: see Eric-fine and Smacht-fine:
  - in cases of unlawful distress, 9.
  - in cases of entry on fenced lands, 25.
  - for entering a chief's house, 313.
- Penance: double precinct, a, 229.
- Pet animals: liability of owner for, and their trespasses, 121.
- Pigs:
  - a yoke necessary in herding, 87.
  - trespasses of, 97, 99.

Pigs—*continued.*
fines for trespass of, 99, 101.
common pasturage of, 103.
trespass by, 109, 111.

Pilgrims:
a cutting before, 155.
bound to oppose certain contracts, 211.
precinct of, 229.
protection of, by the church, 235, 237.

Pine:
a chieftain-tree, 147.
what gives it dignity, 151.

'Pinginn': 119.

Pirates:
a territory is required to defend itself against, 141.
liability of service of attack and defence against, 145.

Plain: mark of, a boundary, 145.

Plebeian: protection of a, 233.

Pledge:
for bees, 163, 177.
chief's, liable for crimes, 245.
to redeem from prison, 247.
of a woman to save her honor, illegal, 271.
of distress illegal, 271.
given by a man who sheds blood, 303.
of an 'ogaire,' 307.
of an 'boaire,' 309.

Plough: in a chief's establishment, 311.

Plunderings:
'smacht'-fines for, 233.
incur 'dire'-fine, 271

Poets:
a gift to a, 211.
a meeting of, 227.
precinct of a, 229.
part of a king's distinction, 339.
seven degrees of, 357, 359, 361.

Poet-King: 331.

Pond: see Rotation at the Mill:
Tuesday to the, 217, 219.
a cooling, for cattle, adds to the price of land, 279.

Possession:
cases of unlawful, 269.
violence does not separate, 269.
fines for unlawful, 271.

Possession of Land:
means of taking lawful, 3.
use of horses and witnesses in taking, 3, 5, 19.
by women, 9, 11, 13, 15.
rule of law in taking, 13.
difference between a woman taking and a man taking, 15.

Possession of Land—*continued.*
  decision of Sencha as to woman taking, 15.
  notice by women before taking, 23.
  shall not be sued by imbeciles and others, 271.

Pound: horses trespassing to be placed in, 107.

Precedence: laws of, in family, tribe, and church, 373.

Precincts:
  the law of, 227–237.
  inviolable, how measured, 227.
  of various classes, 229.

Prescription:
  stake-fences settled by oath and, 143.
  period of, for a weir, 213.

Prince: for what selected over a country, 377, 379.

Prison: a pledge as to, 247.

Professor:
  when a, can be a surety for his pupil, 237.
  description of, 355, 357.

Promises:
  to be estimated by power to fulfil, 37.
  security and collateral security for, 37.
  to pay debts, when forgiven, 39.

Property:
  maxims as to giving away, 33.
  maxims as to buying, 33.
  of the tribe, how claimed and divided, 39.
  descent of, to a son, 45.
  when safe according to the Brehon, 59.
  movable, liable for certain crimes, 247, 249.
  division of, among the tribe, 285, 295.

Protection:
  the law of, 229.
  violation of, 231, 235.
  penalties for violation of, 231.
  as to reciprocal rights, 233.
  by the church, 235.
  by the church to culprits and pilgrims, 237.
  between co-grades, 307.

Proportionate Stock: 210, 211, 305.
  of an 'ogaire'-chief, 307.
  of a tenant-resident, 309, 315.
  of a 'boaire,' 313.
  given to tenants by chief, 315.

Proverbs:
  as to fools, 85.
  as to cows, 97.
  as to trespass, 127.
  as to paying of 'eric'-fine, 241.
  as to lands, 267.
  as to coarbs, 267.

Pupil:
  when a professor can be surety for his, 237.
  must perform certain services to his tutor, 236–7.

Quagmires: protection of cattle from, [illegible].
Rack fine: pledge of co-tenancy to be placed in, [illegible].
Rack rent: adopted son of a tribe gets, 291.
Radment: when 'eric'-fine falls on criminal's, 241.
'**Raitech**'-[illegible]:
    definition of, 29.
    possession of procedure and ejectment of, 29.
    three sorts of, 31.
    forfeiture of stock by, 31, 33.
'**Raith**'-**right**: 327.
'**Rath**': 279.
Refections:
    when due, 303.
    of an 'ogaire,' 307.
    of a tenant resident, 309.
    of a 'boaire,' 311.
'**Reim**'-**man**: 345.
Rent:
    necessary for a king, 51.
    a calf the, for land taken till end of year, 93.
    land trespasses estimated by, 95.
'**Riascaire**'-**man**: 355.
Right of Water: 207–223.
River:
    cattle going across a, a breach, 127.
    running-over a deep, 139.
    a boundary mark, 145.
    adds to the price of land, 279.
Road:
    cattle going across a, a breach, 127.
    running-over a, 139.
    trespasses on, 141.
    liability as regards, 145.
    profits of, 147.
    one of the three commons of a king, 195.
    absconding criminal put upon the, 243.
    adds to the price of land, 279.
Robbery: incurs 'dire'-fine, 271.
'**Roidh**'-**plants**:
    injury of, by hens, 117.
    used for dyeing crimson red, characteristic of arable land, 276.
Rope: in a chief's house, 311.
Rotation at the Mill:
    distribution of days of the week during, 217.
    verses setting forth, 217, 219.
'**Ruire**'-**trespass**: fines for, 81, 85, 127.
Running-over:
    i.e., a species of trespass, 137.
    fine for, 137.
    three kinds of, 139.
    how estimated, fines for, 139.

Sack:
  a fine, 71, 85, 91, 105, 117.
  a measure, 107.
  of malt, charcoal, salt, 311.

'**Saer**'-**stock**: 327.

'**Saer**'-**tenants**: 197, 321, 327, 339.

Sages: a meeting of, at Sliabh Fuaid, 227.

Saint: the inviolable precinct of a, 229.

Salt: a sack of, always in a chief's house, 311.

Salted meat: part of a chief's food, 311.

'**Samhaisc**'-**heifer**: as a fine, 31, 83 (*et passim*).

'**Samseisc focail**': 353.

Sanctuary:
  violation of, by cattle, 87.
  rule of, 231.
  law of, 235.
  of the church, 235, 237.

'**Saor**'-**cottiers**: 381.

'**Saor-giallna**' **service**.

Saturday:
  assigned for certain works, 217, 219.
  assigned by kings for giving judgment, 335.

Saw: in a chief's house, 311.

Scarcity: of corn, proof of king's falsehood, 53.

'**Scor**'-**lands**: *i.e.*, plain, or meadow lands, 227.

'**Screpall**': 29, 75, 83, 163 (*et passim*).

'**Scurthur**': 383.

Sea:
  one of the three commons of a king, 195.
  adds to the price of land, 279.

Security: or an 'ogaire,' 307.

'**Seds**': 9.
  i.e., cattle, 29.
  as compensation for grass, 29.
  as compensation for stake-trespass, 145, 153.
  as compensation for cutting chieftain-trees, 147, 149.
  as compensation for cutting timber generally, 151.
  the returnable, 211.
  a precinct of, for every grade, 227.
  forfeited for crimes, 247, 259.
  purchase of stolen illegal, 271.
  value of eleven things expressed in, 279
  of an 'ogaire,' 305, 307.
  of a 'boaire,' 309.
  the various kinds of, 323, 325, 327.

'**Sencleithe**'-**tenants**: 321, 329, 351.

Serving-pot: in a chief's house, 311.

Shears: in a chief's house, 311.

Sheep:
  a shepherd necessary for, 87.
  should be in fold at night, 97.
  common pasturage of, 101.
  fines for 'airlim'-trespass on, 109

Sheet: Bees settling on a spread, 185.

Shelter:
  against death, 237.
  against unlawful claim for debt, 237.

Shepherd: necessary for sheep, 87.

Shrine: cuttings made at construction of, 155.

Shrub-trees:
  list of, 147.
  'dire'-fines for, 147, 149, 151.

Sick-maintenance:
  the law of, 301, 303, 307, 311, 331, 333.
  what persons do not merit, 387.

Sieve: used by a woman in taking possession, 9.

Sinners: protected by the church, 235.

'Sir': 33.

'Sliasta'-land, 15.

'Smacht'-fines:
  i.e., fine for violating the law, 109.
  pledges for, 79.
  paid quarterly, 79, 89.
  for trespass of animals, 83, 87, 89, 109, 111, 115, 117, 119, 121, 123.
  for instigation, 87.
  for winter trespass, 87, 89.
  statement of summer, 91.
  not paid in certain cases of trespass, 93, 95.
  testing of the, 95.
  oats used as, 95.
  for 'feis'-trespass, 105.
  for trespass of various kinds, 107.
  on co-tenants in the matter of a deserter, 131.
  for stake-trespass, 141, 145, 153.
  how many in a co-tenancy, 139.
  in a sacred wood, 151.
  for cuttings, 155.
  for swarms of bees, 177, 181.
  for plundering, wounds, killing, and cutting, 233, 235.
  sworn to, by 'midboth'-men, 301.
  what persons do not merit, 387.

'Sned': *i.e.*, probably a spear, 313.

'So': 387.

Soap: to wash foulness from a person's honour, 319.

'Soc': 131.

Social Grades: see Grades, 299.

Soldiers: rule of protection in case of hired, 231.

SON:
  covenant of a, with father, not binding, 55, 209.
  reciprocal gifts of father and, 211.
  adopted, regulations respecting, 289.

SOUL: an offering for the, 211.

SPADE: requisite for making a trench, 73.

SPEAR:
  the cast of a, used as the measure of inviolable precincts, 227.
  for killing cattle, 311.

SPEAR-YOUTH: the shot of a rod cast by a, the measure of headland, 139.

SPINDLES:
  of wool, the fine for hen-trespass, 117, 119.
  in a chief's house, 311.

SPINDLE-TREE: a shrub-tree, 147.

SPITS: in a chief's house, 311.

SPRING: 'smacht'-fines payable in, 79, 89.

STAKES, *i.e.*, fences:
  injury done by, 73, 75.
  how put into fences, 113.
  trespasses of, 141, 143.
  what settles the, 143.
  profit of, 145.
  'dire'-fine for cutting, 145, 155, 157.

STEALING: (see also THEFT).
  bees kept in a herb garden or green, 199.
  bees kept outside a green, 201.
  bees from where they are settled, 203.
  in a chief's yard, 313.

STINGS: by bees, how paid for, 177, 179.

STIRABOUT: forms part of refections, sick-maintenance, 301, 307.

STOCK-MARK: description of, 143.

STOLEN PROPERTY: covenant concerning, 57.

STONE:
  of worship, a boundary mark, 143.
  a monumental, a boundary mark, 143.

STONE-MARK: description of, 143.

STONE WALL:
  a bar requisite for making a, 73.
  dimensions of, 77, 113.

STRAND: running over a, 139.

STREAMLET: a boundary mark, 145.

'SUASDAMHA'-OX: 101.

SUCCESSION: laws of, 373–387.

SUMMER: smacht-fines payable in, 79, 89.

SUMMER GRASS LAND: trespass on, 81, 83, 97.

SUMMER MILKING PLACE: trespass on, 81, 83.

SUMMER MOUNTAIN:
  trespass on, 81.
  trespass on, by animals, 83.

Summer wood: trespass on, 81, 83.

Sunday: a king drinks ale on, 335.

Supplication: maxim of the Feini as to, 155.

Surety:
- liability of, 37, 39, 59.
- 'foessam' must be supported by, 207.
- when a professor can be a, for his pupil, 237.
- kinsman, when sued for 'eric'-fine, 259.

Swarms: see Bees.

Swine:
- trespasses of, 87, 97, 99, 109, 111.
- must be in stye at night, 97, 103.
- fines for trespass of, 99, 109, 111, 121.
- common pasturage of, 101, 103.

Swineherd: necessary in common pasturage, 103.

Synod: to turn a, out of lis-fort proof of king's falsehood, 53.

'Tairsce'-trespass:
- fines for, 81, 85.
- by animals, 83, 97, 139.
- by bees, 163.

'Tanaise': of a king, a social grade, 299.

Tanist: why so called, 321, 327.

'Taoibhfine'-division: 243.

'Tarthuscae': *i.e.* the way over, 127.

Tenant Resident:
- description of a, 307.
- proportionate stock of a, 309.
- fixity of tenure for, on certain conditions, 309.

Ternal Covenants: 55.

Territory:
- must defend itself, 141.
- divided into seven parts, 143.

Territory House: *i.e.* hospital, use of, 303.

Test-tree: a shrub-tree, 147.

Theft:
- fines for, 271.
- receiver of stolen goods fined as for, 271.
- incurs 'dire'-fine, 271.

Thief:
- a wandering, not protected, 189.
- the denial of an old. does not separate possession, 269.
- fines imposed on a middle, 271.

Thunder: trespass in consequence of, 105.

Thursday:
- assigned for certain works, 217, 219.
- occupied by kings in marriage duties, 335.

Timber:
- various classes of, 147, 149.
- fines for cutting, 149.

'Tinol'-marriage-collection: one third of a woman's, necessary for marriage, 63.
'Tircumhaile':
  a piece of land, 96, 97.
  how measured, 277.
  six 'forrach' measures in breadth, twelve in length, 277.
Tools: list of, in a chief's house, 311
'Tothla'-trespass: 99.
  fines for, 107.
  description of, 109.
Trees:
  boundary marks, 143.
  cutting, a man-trespass, 147.
  list of common, 147.
  list of chieftain, 147.
  list of shrub, 147.
  list of bramble, 149.
  treatment of wounded, 149.
  difference of, according to place, 151.
  fines for cutting, 169.
  the law of top and bottom of, 169, 171.
  the swarming of bees into, 181, 183, 185.
Trench:
  a spade requisite for making a, 73.
  true dimensions of, 77, 113.
  which is empty until floods of water fill it, 215.
Trespass:
  of co-occupancy, 51.
  of cattle, 75, 79, 81, 83, 85, 87.
  'eric'-fine for, in co-tenancy, 75, 81.
  'airlim' and 'feis,' 79, 81, 85, 91, 93, 103, 105, 109.
  lying down, 81.
  of animals, 83, 85, 87.
  without legal security, 89.
  in consequence of a dog, man, heat, fear, or violence, 93.
  on land, how estimated, 95.
  of swine, 97, 109.
  of calves and cattle, 111, 125.
  of pet herons, deer, wolves, birds, and foxes, 115, 121
  of bees, 115, 117.
  of hens, 115, 117.
  how many, in a co-tenancy, 139.
  of stakes, 141.
  in respect of a passage, 141.
  appraised by a worthy neighbour, 147.
'Triath'-king: 345.
Tribe:
  fugitives from, cannot covenant, 55.
  may rescind contracts and annul covenants, 55.
  head of, nuptial presents due to, 63.
  fugitive from, not protected by 'nemedh,' 185.
  contracts dissolved by, 207, 209.
  of the divisions of the, 285–295.
  adoption by the, regulations, 289.
  choice of a chief by, 377.

Tribe-lands: see **Lands**.

Tribe Property:
  how claimed and divided, 39, 41, 45.
  descent of, to a son, 45.
  honour price, part of, 49.
  division of, 247, 259, 285–295.

Troughs: in a chief's house, 311.

Truth: to be without, proof of king's falsehood, 53.

'**Tuaith**': *i.e.*, a territory, 287.

Tubs: in a chief's house, 311.

Tuesday:
  assigned for certain works, 217, 219.
  kings play chess on, 335.

Turf-bog: ditch of a, 221.

'**Uaitne**'-**chief**: 345.
  description of, 351.

'**Ulach**'-**person**: covenant of a, not binding, if alone, 55.

Unlawful Expulsion: case of, and fine, 7.

'**Urradhus**' **Law**: 27.
  divisions of honour-price according to, 235.

Utensils: list of, found in a chief's house, 311.

Vengeance:
  for the foster-child of the family, 255, 257.
  for a man of the 'deirbhfine'-division, 257.

Victuals: during co-tenancy work, 77.

Violence:
  trespass in consequence of, 93.
  does not separate possession, 269.
  engagement by, not lawful, 271.
  shall not prevail, 273.

Verbal Engagements: keeping and dissolving, 207.

Vessel:
  a milch cow, 164.
  a 'samhaisc'-heifer, 164.
  a 'colpach'-heifer, 165.
  a 'dairt'-heifer, 165.

War: roads must be kept clean in time of, 145.

Water:
  right of, in tribe lands, 207.
  'cain'-law of, 211.
  price of, fixed, 213.
  free on certain lands, 215.

Way-mark: definition of, 145.

Weapons: carried by various persons, 361.

Wednesday:
  assigned for certain works, 217, 219.
  assigned for greyhound coursing by kings, 335.

Weeds: must be removed from roads in time of war and of a fair, 145.

INDEX TO PROPER NAMES.

Adam, 267.
Adamnan, 335.
Aengus Aigle, 17.
Aengus Guabuadhbtach, 267.
Aicill, 267.
Ailill, 359.
Aillld Lethdherg, 17.
Aillel Olum, 10, 11.
Ainrirgin, 10.
Albanach, 253.
Anluan, 17.
Ardmacha, 253.
Augustine, 363.
Bri Anbui, 10.
Blai Brughaidh, 10.
Brigh, 17, 39, 41.
Bregia, 265, 267.
Caisel, 6.
Cashel, 335.
Cell Gabhrin, 7.
Cennfaeladh, 257.
Cethra, 10.
Cian, 11.
Ciannacht, 9.
Cinnia, 36.
Coarb of Lismore, 6.
Cobhthach Caelbregh, 41.
Coirpre, 377.
Coirpri Lifechair, 267.
Conalc Caech, 179.
Conall Cernach, 10.
Conchobar Macnessa, 7.
Conn Cetcorach, 21.
Conn O'Cormac, 377
Connla, 11.
Cormac, 265.
Cormac Mac Airt, 374
Cuilt, 227.
Dun Araill, 7.
Doighin, 19.
Eichne, 1.
Eidgedh, 63.
Eile, 6.
Erin, 36, 227, 381.
Feini, 5, 7 (*et passim* .
Feinichus, 9.
Felim Mac Crimthan, 336.
Fergus Forcraidh, 9, 17.
Fergus the Poet, 33.
Fiadh-Mudhain, 6.
Fithal, 265.
Gabhal, 10.
Gabhair, 17.
Inis Cathaig, 6, 7.
Ledi, 17.
Madach, 17.
Maer, 41.
Magh Bregh, 227.
Main, 41.
Mata Mor, 359.
Matech, 5.
Menn, 11, 17.
Mesgaghra, 379.
Michuairt, 331.
Midhe Minn, 10.
Mochuta, 7.
Morann, 361, 385.
Muiredhach, 265.
Munster, 335.
Nairi, 383.
Nia Mac Anluan, 17.
Ninne, 5.

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